

(124th General Assembly)  
(Amended Substitute Senate Bill Number 261)

# AN ACT

To amend sections 124.151, 131.44, 173.06, 173.40, 2913.40, 3721.51, 3721.56, 5101.11, 5111.02, 5111.10, 5111.86, 5111.871, 5112.01, 5112.06, 5112.07, 5112.11, 5123.041, 5126.053, 5126.17, 5733.01, 5733.04, 5733.40, 5740.03, 5743.02, 5743.03, 5743.04, 5743.08, 5743.081, 5743.12, 5743.13, 5743.14, 5743.32, 5743.33, 5743.34, 5743.35, 5747.01, 5747.02, 5747.05, 5747.21, 5901.02, 5901.03, and 5919.34; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 5111.10 (5111.90), 5111.86 (5111.91), and 5126.17 (5126.18); to enact sections 131.441, 173.061, 173.062, 173.07, 173.071, 173.072, 5111.0112, 5111.082, 5111.091, 5111.92, 5111.93, 5111.94, 5747.212, and 5901.021; and to repeal sections 5126.16, 5126.18, 5743.023, and 5743.322 of the Revised Code and to amend Section 8 of Am. Sub. S.B. 172 of the 123rd General Assembly; to amend Section 5.02 of Sub. H.B. 73 of the 124th General Assembly, as subsequently amended; to amend Sections 16, 16.02, 44, 44.19, 63.07, 63.35, 75.02, 94, 94.02, 94.06, 94.07, and 125 of Am. Sub. H.B. 94 of the 124th General Assembly; to amend Section 13 of Am. Sub. H.B. 94 of the 124th General Assembly, as subsequently amended; to amend Sections 63 and 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly, as subsequently amended; to amend Section 29 of Am. Sub. H.B. 405 of the 124th General Assembly; and to repeal Section 31 of Am. Sub. H.B. 405 of the 124th General Assembly to increase the rate of tax on

cigarettes; to make other tax modifications; to provide authorization and conditions for the operation of state programs; to make other budgetary and program modifications; and to make operating appropriations for the period ending June 30, 2003, and capital appropriations for the period ending June 30, 2004.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 124.151, 131.44, 173.06, 173.40, 2913.40, 3721.51, 3721.56, 5101.11, 5111.02, 5111.10, 5111.86, 5111.871, 5112.01, 5112.06, 5112.07, 5112.11, 5123.041, 5126.053, 5126.17, 5733.01, 5733.04, 5733.40, 5740.03, 5743.02, 5743.03, 5743.04, 5743.08, 5743.081, 5743.12, 5743.13, 5743.14, 5743.32, 5743.33, 5743.34, 5743.35, 5747.01, 5747.02, 5747.05, 5747.21, 5901.02, 5901.03, and 5919.34 be amended; sections 5111.10 (5111.90), 5111.86 (5111.91), and 5126.17 (5126.18) be amended for the purpose of adopting new section numbers as indicated in parentheses; and sections 131.441, 173.061, 173.062, 173.07, 173.071, 173.072, 5111.0112, 5111.082, 5111.091, 5111.92, 5111.93, 5111.94, 5747.212, and 5901.021 of the Revised Code be enacted to read as follows:

Sec. 124.151. (A) As used in this section, "compensation" includes, but is not limited to, wages and salary, travel allowances paid pursuant to section 101.27 of the Revised Code, and benefits paid pursuant to sections 124.13, 124.19, 124.381, 124.382, 124.383, 124.384, 124.385, and 124.386 of the Revised Code.

(B) The compensation of any employee whose employment commenced on or after the effective date of this amendment and who is paid by warrant of the auditor of state shall, upon the written authorization of the employee be paid by direct deposit. Such Each such employee shall provide to the appointing authority a written authorization for payment by direct deposit. The authorization shall include the designation of a financial institution equipped to accept direct deposits and the number of the account into which the deposit is to be made. The authorization shall remain in effect until withdrawn in writing by the employee or until dishonored by the financial institution. The director of administrative services shall provide by rule adopted under Chapter 119. of the Revised Code for the direct deposit in a financial institution of the compensation of an employee who fails to provide to the appointing authority a written authorization for payment by

direct deposit.

Sec. 131.44. (A) As used in this section:

(1) "Surplus revenue" means the excess, if any, of the total fund balance over the required year-end balance.

(2) "Total fund balance" means the sum of the unencumbered balance in the general revenue fund on the last day of the preceding fiscal year ~~plus, the balance in the excess tax receipts fund created under section 131.441 of the Revised Code on the last day of the preceding fiscal year, and the balance in the budget stabilization fund.~~

(3) "Required year-end balance" means the sum of the following:

(a) Five per cent of the general revenue fund revenues for the preceding fiscal year;

(b) "Ending fund balance," which means one-half of one per cent of general revenue fund revenues for the preceding fiscal year;

(c) "Carryover balance," which means, with respect to a fiscal biennium, the excess, if any, of the estimated general revenue fund appropriation and transfer requirement for the second fiscal year of the biennium over the estimated general revenue fund revenue for that fiscal year;

(d) "Capital appropriation reserve," which means the amount, if any, of general revenue fund capital appropriations made for the current biennium that the director of budget and management has determined will be encumbered or disbursed;

(e) "Income tax reduction impact reserve," which means an amount equal to the reduction projected by the director of budget and management in income tax revenue in the current fiscal year attributable to the previous reduction in the income tax rate made by the tax commissioner pursuant to division (B) of section 5747.02 of the Revised Code.

(4) "Estimated general revenue fund appropriation and transfer requirement" means the most recent adjusted appropriations made by the general assembly from the general revenue fund and includes both of the following:

(a) Appropriations made and transfers of appropriations from the first fiscal year to the second fiscal year of the biennium in provisions of acts of the general assembly signed by the governor but not yet effective;

(b) Transfers of appropriation from the first fiscal year to the second fiscal year of the biennium approved by the controlling board.

(5) "Estimated general revenue fund revenue" means the most recent such estimate available to the director of budget and management.

(B)(1) Not later than the thirty-first day of July each year, the director of budget and management shall determine the surplus revenue that existed on

the preceding thirtieth day of June and transfer from the general revenue fund, to the extent of the unobligated, unencumbered balance on the preceding thirtieth day of June in excess of one-half of one per cent of the general revenue fund revenues in the preceding fiscal year, and from the excess tax receipts fund, the following:

(a) First, to the budget stabilization fund, any amount necessary for the balance of the budget stabilization fund to equal five per cent of the general revenue fund revenues of the preceding fiscal year;

(b) Then, to the income tax reduction fund, which is hereby created in the state treasury, an amount equal to the surplus revenue.

(2) Not later than the thirty-first day of July each year, the director shall determine the percentage that the balance in the income tax reduction fund is of the amount of revenue that the director estimates will be received from the tax levied under section 5747.02 of the Revised Code in the current fiscal year without regard to any reduction under division (B) of that section. If that percentage exceeds thirty-five one hundredths of one per cent, the director shall certify the percentage to the tax commissioner not later than the thirty-first day of July.

(C) The director of budget and management shall transfer money in the income tax reduction fund to the general revenue fund, the local government fund, the library and local government support fund, and the local government revenue assistance fund as necessary to offset revenue reductions resulting from the reductions in taxes required under division (B) of section 5747.02 of the Revised Code in the respective amounts and percentages prescribed by divisions (A)(1), (2), and (4) of section 5747.03 of the Revised Code as if the amount transferred had been collected as taxes under Chapter 5747. of the Revised Code. If no reductions in taxes are made under that division that affect revenue received in the current fiscal year, the director shall not transfer money from the income tax reduction fund to the general revenue fund, the local government fund, the library and local government support fund, and the local government revenue assistance fund.

Sec. 131.441. (A) As used in this section:

(1) "Base year revenue" means sixteen billion one hundred ninety-five million eight hundred thousand dollars.

(2) "Target revenue" for each fiscal year after fiscal year 2002 means the target fiscal year revenue for the preceding fiscal year multiplied by the greater of the following:

(a) One hundred three per cent;

(b) One hundred per cent plus the percentage increase in the consumer price index prepared by the United States bureau of labor statistics (all urban

consumers, all items) for the twelve-month period ending on the thirty-first day of December preceding the determination made under division (C) of this section.

For fiscal year 2002, "target revenue" equals the base year revenue multiplied by the greater of the quantities described in divisions (A)(2)(a) and (b) of this section.

(3) "Actual revenue" for a fiscal year means the total amount of taxes credited to the general revenue fund in the fiscal year plus transfers made in the fiscal year from the income tax reduction fund to the general revenue fund under division (C) of section 131.44 of the Revised Code.

(4) "Excess revenue" for a fiscal year means the excess, if any, of actual revenue for that fiscal year over the target revenue for that fiscal year.

(B) There is hereby created in the state treasury the excess tax receipts fund. Money in the fund shall not be transferred or appropriated from the fund except as provided in division (B)(1) of section 131.44 of the Revised Code.

(C) On the thirtieth day of June each year, the director of budget and management shall transfer from the general revenue fund to the excess tax receipts fund an amount equal to the excess revenue for the fiscal year ending on that day.

Sec. 173.06. (A) The director of aging shall establish a golden buckeye card program and provide a golden buckeye card to any resident of this state who applies to the director for a card and who is sixty years of age or older or disabled. The director shall devise programs to provide benefits of any kind to card holders, and encourage support and participation in them by all persons, including governmental organizations. Card holders shall be entitled to any benefits granted to them by private persons or organizations, the laws of this state, or ordinances or resolutions of political subdivisions. This section does not require any person or organization to provide benefits to any card holder. The department of aging shall bear all costs of the program, except that the department is not required to bear any costs related to the prescription drug discount programs established pursuant to section 173.061 of the Revised Code.

(B) Before issuing a golden buckeye card to any person, the director shall establish the identity of any person who applies for a card and shall ascertain that such person is sixty years of age or older or disabled. The director shall adopt rules under Chapter 119. of the Revised Code to prevent the issuance of cards to persons not qualified to have them. Cards shall contain the signature of the card holder and any other information the director considers necessary to carry out the purposes of the golden buckeye

card program under this section. Any card that the director issues shall be held in perpetuity by the original card holder and shall not be transferable to any other person. A person who loses ~~his~~ the person's card may obtain another card from the director upon providing the same information to the director as was required for the issuance of the original card.

(C) No person shall use a golden buckeye card except to obtain a benefit for the holder of the card to which the holder is entitled under the conditions of the offer.

(D) As used in this section, "disabled person" means a person who has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment that ~~he or she~~ the person is substantially able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery therefrom, or who has been certified as permanently and totally disabled by an agency of this state or the United States having the function of so classifying persons.

Sec. 173.061. (A) As used in this section:

(1) "Prescription drug" means a drug that may not be dispensed without a prescription from a licensed health professional authorized to prescribe drugs.

(2) "Drug," "licensed health professional authorized to prescribe drugs," "pharmacy," and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

(3) "Disabled person" has the same meaning as in section 173.06 of the Revised Code.

(B) The director of aging shall establish one or more prescription drug discount card programs that enable cardholders to receive discounts on prescription drugs dispensed at participating pharmacies. A card shall be provided to any resident of this state who applies in accordance with rules adopted by the director pursuant to division (F) of this section and is sixty years of age or older or is a disabled person.

If the director establishes more than one prescription drug discount card program under this section, an eligible resident may participate in one or more or all of the programs.

(C)(1) The director shall solicit and accept proposals from entities separate from the department of aging to provide for administration of a program or programs in accordance with rules adopted under division (F) of this section. Proposals must be submitted not later than a date established by the director. The director shall accept only those proposals that specify all of the following:

(a) The estimated amount of the discount based on the entity's previous experience and how the discount is to be achieved;

(b) To the extent that discounts on prescription drugs are to be achieved through rebates or discounts in prices that the entity negotiates with drug manufacturers, the proportion of the rebates or discounts to be used to do all of the following:

(i) Reduce any costs to cardholders;

(ii) Achieve discounts for cardholders;

(iii) Cover costs for administering the program.

(c) Any other benefits offered to cardholders;

(d) If fees are permitted, the fee, if any, to cardholders for participation in the program and whether the fee is to be a one-time or periodic fee;

(e) The estimated number and geographic distribution of participating pharmacies and the process for establishing the program's pharmacy network;

(f) Financial incentives to be paid to participating pharmacies by the entity;

(g) The percentage of prescription drugs to be covered by the program by major drug category;

(h) How the entity proposes to improve medication management for cardholders;

(i) How cardholders and participating pharmacies will be informed of the discounted price negotiated by the entity;

(j) How the entity will handle complaints about the program's operation;

(k) The entity's previous experience in managing similar programs;

(l) Any additional information requested by the director.

(2) The director shall contract with one or more entities to administer a program or programs on the basis of the proposals submitted, but may require an administrator to modify its conduct of a program in accordance with rules adopted under division (F) of this section. Prior to entering into a contract with an entity, the director shall obtain approval of the contract from the controlling board at a public hearing.

The director shall adopt rules specifying the period for which a contract will be in effect and may terminate a contract if an administrator fails to conduct a program in accordance with its proposal or with any modifications required by rule. When a contract period ends or a contract is terminated, the director shall enter into a new contract in the manner specified in this section for an original contract. Prior to making a new contract, the director may modify the rules for administration of the program or programs.

(D) The rules for administration of a program established under division

(C)(2) of this section may permit an administrator to charge a fee for a prescription drug discount card. The fee may be a one-time or periodic fee. If the rules permit a fee to be charged, each entity that submits a proposal under which a fee will be charged shall specify the amount of the fee and the period to which the fee will apply.

If an administrator charges a fee for a prescription drug discount card, the rules may require the administrator to issue the cards. If an administrator does not charge a fee, the rules may require the administrator to issue the cards or may include the prescription drug discount information on golden buckeye cards issued under section 173.06 of the Revised Code.

(E) As used in this division, "administrator" includes the administrator's parent company and any subsidiary of the parent company.

(1) No administrator shall sell any information concerning a person who holds a prescription drug discount card, other than aggregate information that does not identify the cardholder, without the cardholder's written consent.

(2) Unless an administrator has the cardholder's written consent, no administrator shall use any personally identifiable information that it obtains concerning a cardholder through the program to promote or sell a program or product offered by the administrator that is not related to the administration of the program. This division does not prohibit an administrator from contacting cardholders concerning participation in or administration of the program, including, but not limited to, mailing a list of pharmacies participating in the program's network.

(3) To the extent that a discount is achieved through rebates or discounts in prices that an administrator negotiates with drug manufacturers, an administrator shall use the rebates or discounts to do the following:

- (a) Reduce any costs to cardholders;
- (b) Achieve discounts for cardholders;
- (c) Cover any administrative costs of the program.

(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

- (1) Specify how a resident may apply to participate in any one or more prescription drug discount card programs;
- (2) Provide for the administration of each program;
- (3) Specify the circumstances under which the director may require an administrator to modify its conduct of a program;
- (4) Specify the duration of a contract;
- (5) Specify whether an administrator may charge a fee for a card and whether an administrator is required to issue the cards;

(6) Require that an administrator permit any pharmacy willing to comply with the administrator's terms and conditions for participation in the program's network to participate in any network used by the administrator for its program;

(7) Prohibit an administrator from requiring a pharmacy or drug manufacturer to participate in the program's network as a condition of participation in another network operated by the administrator;

(8) Permit an administrator to negotiate with one or more drug manufacturers for discounts in drug prices or rebates;

(9) Permit an administrator to receive any rebate payments from drug manufacturers;

(10) Require that an administrator create a financial incentive program for participating pharmacies through which the administrator shall distribute a portion of any rebate payments from drug manufacturers received under division (F)(9) of this section.

(G) Not later than one month after the end of each twelve-month period that one or more prescription drug discount card programs are in operation, each administrator shall collect from each of its participating pharmacies and provide to the director of aging the information required by section 173.071 of the Revised Code.

Sec. 173.062. Records identifying the recipients of golden buckeye cards issued under section 173.06 of the Revised Code or prescription drug discount cards issued under section 173.061 of the Revised Code are not public records subject to inspection or copying under section 149.43 of the Revised Code and may be disclosed only at the discretion of the director of aging. The director may disclose only information in records identifying the recipients of golden buckeye cards or prescription drug discount cards that does not contain the recipient's medical history or prescription drug utilization history.

Sec. 173.07. Not later than four months after the end of each twelve-month period that one or more prescription drug discount card programs established under section 173.061 of the Revised Code are in operation, the director of aging shall issue a report on the operation of each program during that twelve-month period.

Sec. 173.071. Each report issued under section 173.07 of the Revised Code shall be based on information received by the director of aging from each administrator under division (G) of section 173.061 of the Revised Code and specify all of the following about each program:

(A) The number of prescription drug discount cardholders;

(B) The number of cardholders who used the card at least once in the

immediately preceding twelve-month period;

- (C) The total cost savings to all cardholders generated by the program;
- (D) The average cost savings to a cardholder per prescription;
- (E) The source and method of cost savings under the program;
- (F) The drugs that are discounted under the program listed according to major drug category;
- (G) For each participating pharmacy, the number of times in the twelve-month period that the pharmacy's customary and usual price was lower than the price offered under the prescription drug discount program;
- (H) The name of the program's administrator;
- (I) The length of the contract between the director and the program's administrator;
- (J) The number of pharmacies participating in the program;
- (K) Other than the cost of prescription drugs, any fees paid by cardholders to participate in the program;
- (L) Any costs incurred by the state to operate the program;
- (M) Any costs incurred by participating pharmacies to participate in the program.

Sec. 173.072. The director of aging shall submit each report to the governor, the speaker and minority leader of the house of representatives, the president and minority leader of the senate, and the chairpersons and ranking minority members of the committees of the house of representatives and senate that have primary concern with matters pertaining to health care.

Sec. 173.40. There is hereby created a component of the medicaid program established under Chapter 5111. of the Revised Code to be known as the preadmission screening system providing options and resources today program, or PASSPORT. The PASSPORT program shall provide home and community-based services as an alternative to nursing facility placement for aged and disabled medicaid recipients. The program shall be operated pursuant to a home and community-based waiver granted by the United States secretary of health and human services under section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396n, as amended. The department of aging shall administer the program through ~~an interagency agreement a contract~~ entered into with the department of job and family services under section ~~5111.86~~ 5111.91 of the Revised Code. The directors of aging and job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the program.

Sec. 2913.40. (A) As used in this section:

- (1) "Statement or representation" means any oral, written, electronic,

electronic impulse, or magnetic communication that is used to identify an item of goods or a service for which reimbursement may be made under the medical assistance program or that states income and expense and is or may be used to determine a rate of reimbursement under the medical assistance program.

(2) "Medical assistance program" means the program established by the department of job and family services to provide medical assistance under section 5111.01 of the Revised Code and the medicaid program of Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(3) "Provider" means any person who has signed a provider agreement with the department of job and family services to provide goods or services pursuant to the medical assistance program or any person who has signed an agreement with a party to such a provider agreement under which the person agrees to provide goods or services that are reimbursable under the medical assistance program.

(4) "Provider agreement" means an oral or written agreement between the department of job and family services and a person in which the person agrees to provide goods or services under the medical assistance program.

(5) "Recipient" means any individual who receives goods or services from a provider under the medical assistance program.

(6) "Records" means any medical, professional, financial, or business records relating to the treatment or care of any recipient, to goods or services provided to any recipient, or to rates paid for goods or services provided to any recipient and any records that are required by the rules of the director of job and family services to be kept for the medical assistance program.

(B) No person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the medical assistance program.

(C) No person, with purpose to commit fraud or knowing that the person is facilitating a fraud, shall do either of the following:

(1) Contrary to the terms of the person's provider agreement, charge, solicit, accept, or receive for goods or services that the person provides under the medical assistance program any property, money, or other consideration in addition to the amount of reimbursement under the medical assistance program and the person's provider agreement for the goods or services and any deductibles or co-payments authorized by rules adopted under section 5111.02 5111.0112 of the Revised Code or by any rules adopted pursuant to that section.

(2) Solicit, offer, or receive any remuneration, other than any deductibles or co-payments authorized by rules adopted under section ~~5111.02~~ ~~5111.0112~~ of the Revised Code or by any rules adopted pursuant to that section, in cash or in kind, including, but not limited to, a kickback or rebate, in connection with the furnishing of goods or services for which whole or partial reimbursement is or may be made under the medical assistance program.

(D) No person, having submitted a claim for or provided goods or services under the medical assistance program, shall do either of the following for a period of at least six years after a reimbursement pursuant to that claim, or a reimbursement for those goods or services, is received under the medical assistance program:

(1) Knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to fully disclose the nature of all goods or services for which the claim was submitted, or for which reimbursement was received, by the person;

(2) Knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to disclose fully all income and expenditures upon which rates of reimbursements were based for the person.

(E) Whoever violates this section is guilty of medicaid fraud. Except as otherwise provided in this division, medicaid fraud is a misdemeanor of the first degree. If the value of property, services, or funds obtained in violation of this section is five hundred dollars or more and is less than five thousand dollars, medicaid fraud is a felony of the fifth degree. If the value of property, services, or funds obtained in violation of this section is five thousand dollars or more and is less than one hundred thousand dollars, medicaid fraud is a felony of the fourth degree. If the value of the property, services, or funds obtained in violation of this section is one hundred thousand dollars or more, medicaid fraud is a felony of the third degree.

(F) Upon application of the governmental agency, office, or other entity that conducted the investigation and prosecution in a case under this section, the court shall order any person who is convicted of a violation of this section for receiving any reimbursement for furnishing goods or services under the medical assistance program to which the person is not entitled to pay to the applicant its cost of investigating and prosecuting the case. The costs of investigation and prosecution that a defendant is ordered to pay pursuant to this division shall be in addition to any other penalties for the receipt of that reimbursement that are provided in this section, section 5111.03 of the Revised Code, or any other provision of law.

(G) The provisions of this section are not intended to be exclusive

remedies and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this section.

Sec. 3721.51. The department of job and family services shall:

(A) For the purposes specified in section 3721.56 of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to three dollars and thirty cents for fiscal ~~years year~~ 2002 and 2003, four dollars and thirty cents for fiscal years 2003 through 2005, and one dollar for each fiscal year thereafter, multiplied by the product of the following:

(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, on July 1, 1993, and, for each subsequent year, the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in fiscal year 1994 and, for each subsequent year, the number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(B) For the purposes specified in section 3721.56 of the Revised Code, determine an annual franchise permit fee on each hospital in an amount equal to three dollars and thirty cents for fiscal ~~years year~~ 2002 and 2003, four dollars and thirty cents for fiscal years 2003 through 2005, and one dollar for each fiscal year thereafter, multiplied by the product of the following:

(1) The number of beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds, plus any other beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code, on July 1, 1993, and, for each subsequent year, the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in fiscal year 1994 and, for each subsequent year, the number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

If the United States ~~health care financing administration centers for medicare and medicaid services~~ determines that the franchise permit fee established by sections 3721.50 ~~through to~~ 3721.58 of the Revised Code would be an impermissible health care related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as

amended, the department of job and family services shall take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 3721.58 of the Revised Code.

Sec. 3721.56. (A) Thirty and three-tenths per cent of all payments and penalties paid by nursing homes and hospitals under sections 3721.53 and 3721.54 of the Revised Code for fiscal years year 2002 and 2003, twenty-three and twenty-six-hundredths per cent of such payments and penalties paid for fiscal years 2003 through 2005, and all such payments and penalties paid for subsequent fiscal years, shall be deposited into the "home and community-based services for the aged fund," which is hereby created in the state treasury. The departments of job and family services and aging shall use the moneys in the fund to fund the following in accordance with rules adopted under section 3721.58 of the Revised Code:

- (1) The medical assistance program established under Chapter 511. 5111. of the Revised Code;
- (2) The PASSPORT program established under section 173.40 of the Revised Code;
- (3) The residential state supplement program established under section 173.35 of the Revised Code.

(B) Sixty-nine and seven-tenths per cent of all payments and penalties paid by nursing homes and hospitals under sections 3721.53 and 3721.54 of the Revised Code for fiscal years year 2002 and, and seventy-six and seventy-four-hundredths per cent of such payments and penalties paid for fiscal years 2003 through 2005, shall be deposited into the nursing facility stabilization fund, which is hereby created in the state treasury. The department of job and family services shall use the money in the fund in the manner provided by Am. Sub. H.B. 94 and Am. Sub. S.B. 261 of the 124th general assembly.

Sec. 5101.11. This section does not apply to contracts entered into under section 5111.022, 5111.90, or 5111.91 of the Revised Code.

(A) As used in this section:

(1) "Entity" includes an agency, board, commission, or department of the state or a political subdivision of the state; a private, nonprofit entity; a school district; a private school; or a public or private institution of higher education.

(2) "Federal financial participation" means the federal government's share of expenditures made by an entity in implementing a program administered by the department of job and family services.

(B) At the request of any public entity having authority to implement a program administered by the department of job and family services or any

private entity under contract with a public entity to implement a program administered by the department, the department may seek to obtain federal financial participation for costs incurred by the entity. Federal financial participation may be sought from programs operated pursuant to Title IV-A, Title IV-E, and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended; the "Food Stamp Act of 1964," 78 Stat. 703, 7 U.S.C. 2011, as amended; and any other statute or regulation under which federal financial participation may be available, except that federal financial participation may be sought only for expenditures made with funds for which federal financial participation is available under federal law.

(C) All funds collected by the department of job and family services pursuant to division (B) of this section shall be distributed to the entities that incurred the costs, except for any amounts retained by the department pursuant to division (D)(3) of this section.

(D) In distributing federal financial participation pursuant to this section, the department may either enter into an agreement with the entity that is to receive the funds or distribute the funds in accordance with rules adopted under division (F) of this section. If the department decides to enter into an agreement to distribute the funds, the agreement may include terms that do any of the following:

(1) Provide for the whole or partial reimbursement of any cost incurred by the entity in implementing the program;

(2) In the event that federal financial participation is disallowed or otherwise unavailable for any expenditure, require the department of job and family services or the entity, whichever party caused the disallowance or unavailability of federal financial participation, to assume responsibility for the expenditures;

(3) Permit the department to retain not more than five per cent of the amount of the federal financial participation to be distributed to the entity;

(4) Require the public entity to certify the availability of sufficient unencumbered funds to match the federal financial participation it receives under this section;

(5) Establish the length of the agreement, which may be for a fixed or a continuing period of time;

(6) Establish any other requirements determined by the department to be necessary for the efficient administration of the agreement.

(E) An entity that receives federal financial participation pursuant to this section for a program aiding children and their families shall establish a process for collaborative planning with the department of job and family services for the use of the funds to improve and expand the program.

(F) The director of job and family services shall adopt rules as necessary to implement this section, including rules for the distribution of federal financial participation pursuant to this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The director may adopt or amend any statewide plan required by the federal government for a program administered by the department, as necessary to implement this section.

(G) Federal financial participation received pursuant to this section shall not be included in any calculation made under section 5101.16 or 5101.161 of the Revised Code.

Sec. 5111.0112. The director of job and family services shall examine instituting a copayment program under medicaid. As part of the examination, the director shall determine which groups of medicaid recipients may be subjected to a copayment requirement under federal statutes and regulations and which of those groups are appropriate for a copayment program designed to reduce inappropriate and excessive use of medical goods and services. If, on completion of the examination, the director determines that it is feasible to institute such a copayment program, the director may seek approval from the United States secretary of health and human services to institute the copayment program. If necessary, the director may seek approval by applying for a waiver of federal statutes and regulations. If such approval is obtained, the director shall adopt rules in accordance with Chapter 119. of the Revised Code governing the copayment program.

Sec. 5111.02. (A) Under the medical assistance program:

(1) Reimbursement Except as otherwise permitted by federal statute or regulation and at the department's discretion, reimbursement by the department of job and family services to a medical provider for any medical service rendered under the program shall not exceed the authorized reimbursement level for the same service under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(2) Reimbursement for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles.

(3) The department may deduct from payments for services rendered by a medicaid provider under the medical assistance program any amounts the provider owes the state as the result of incorrect medical assistance payments the department has made to the provider.

(4) The department may conduct final fiscal audits in accordance with the applicable requirements set forth in federal laws and regulations and

determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling.

(5) ~~To the maximum extent that federal laws and regulations permit the implementation of such a policy, the department may institute a copayment program for all services provided under the medical assistance program. The program shall be administered in accordance with the applicable requirements set forth in federal laws and regulations.~~

(6) The number of days of inpatient hospital care for which reimbursement is made on behalf of a recipient of medical assistance to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code.

(B) The director of job and family services may adopt, amend, or rescind rules under Chapter 119. of the Revised Code establishing the amount, duration, and scope of medical services to be included in the medical assistance program. Such rules shall establish the conditions under which services are covered and reimbursed, the method of reimbursement applicable to each covered service, and the amount of reimbursement or, in lieu of such amounts, methods by which such amounts are to be determined for each covered service. Any rules that pertain to nursing facilities or intermediate care facilities for the mentally retarded shall be consistent with sections 5111.20 to 5111.33 of the Revised Code.

(C) No health insuring corporation that has a contract to provide health care services to recipients of medical assistance shall restrict the availability to its enrollees of any prescription drugs included in the Ohio medicaid drug formulary as established under rules adopted by the director.

(D) The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.

Sec. 5111.082. The director of job and family services, in rules adopted under section 5111.02 of the Revised Code, may establish and implement a

supplemental drug rebate program under which drug manufacturers may be required to provide the department of job and family services a supplemental rebate as a condition of having the drug manufacturers' drug products covered by the medicaid program without prior approval. If necessary, the director may apply to the United States secretary of health and human services for a waiver of federal statutes and regulations to establish the supplemental drug rebate program. A supplemental rebate may be, at the director's discretion, one or more cash payments by a drug manufacturer to the department or one or more services a drug manufacturer performs that are guaranteed to produce savings to the medicaid program within one year of the date the director enters into a supplemental drug rebate contract with the drug manufacturer or other date negotiated by the director and drug manufacturer. Examples of services drug manufacturers may perform include disease management, drug product donations, drug utilization control, prescriber and beneficiary counseling and education, and fraud and abuse initiatives.

If the director establishes a supplemental drug rebate program, the director shall consult with drug manufacturers regarding the establishment and implementation of the program.

If the director establishes a supplemental drug rebate program, the director shall exempt from the program all of a drug manufacturer's drug products that have been approved by the United States food and drug administration for the treatment of either of the following:

(A) Mental illness, as defined in section 5122.01 of the Revised Code, including schizophrenia, major depressive disorder, and bipolar disorder;

(B) HIV or AIDS, both as defined in section 3701.24 of the Revised Code.

Sec. 5111.091. Every three months, the director of job and family services shall submit a report to the president and minority leader of the senate and speaker and minority leader of the house of representatives on the establishment and implementation of programs designed to control the increase of the cost of the medicaid program.

Sec. 5111.871. The department of job and family services shall enter into an interagency agreement a contract with the department of mental retardation and developmental disabilities under section 5111.86 5111.91 of the Revised Code with regard to the component of the medicaid program established by the department of job and family services under one or more waivers from the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended, to provide eligible medicaid recipients

with home and community-based services as an alternative to placement in an intermediate care facility for the mentally retarded. The agreement contract shall provide for the department of mental retardation and developmental disabilities to administer the component in accordance with the terms of the waiver. The directors of job and family services and mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing the component.

If the department of mental retardation and developmental disabilities or the department of job and family services denies an individual's application for home and community-based services provided under this medicaid component, the department that denied the services shall give timely notice to the individual that the individual may request a hearing under section 5101.35 of the Revised Code.

The departments of mental retardation and developmental disabilities and job and family services may approve, reduce, deny, or terminate a service included in the individualized service plan developed for a medicaid recipient eligible for home and community-based services provided under this medicaid component. The departments shall consider the recommendations a county board of mental retardation and developmental disabilities makes under division (A)(1)(c) of section 5126.055 of the Revised Code. If either department approves, reduces, denies, or terminates a service, that department shall give timely notice to the medicaid recipient that the recipient may request a hearing under section 5101.35 of the Revised Code.

If supported living or residential services, as defined in section 5126.01 of the Revised Code, are to be provided under this component, any person or government entity with a current, valid medicaid provider agreement and a current, valid license under section 5123.19 or certificate under section 5123.045 or 5126.431 of the Revised Code may provide the services.

Sec. 5111.10 5111.90. To (A) As used in sections 5111.90 to 5111.93 of the Revised Code:

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

(2) "State agency" means every organized body, office, or agency, other than the department of job and family services, established by the laws of the state for the exercise of any function of state government.

(B) To the extent permitted by Title XIX of the "Social Security Act," 49 79 Stat. 620 286 (1935 1965), 42 U.S.C.A. 301 1396, as amended, and

regulations adopted under that ~~act~~ title, the department of job and family services may enter into ~~agreements~~ contracts with political subdivisions to use funds of the political subdivision to pay the nonfederal share of expenditures under the ~~medical assistance~~ medicaid program. The determination and provision of federal financial reimbursement to a subdivision entering into ~~an agreement~~ a contract under this section shall be determined by the department, subject to section 5111.92 of the Revised Code, approval by the United States secretary of health and human services, and the availability of federal financial participation.

Sec. ~~5111.86~~ 5111.91. The department of job and family services may enter into ~~interagency agreements~~ contracts with one or more other state agencies or political subdivisions to have the state agency or political subdivision administer one or more components of the medicaid program, or one or more aspects of a component, under the department's supervision. A state agency or political subdivision that enters into such ~~an interagency agreement a contract~~ shall comply with the terms of the contract and any rules the director of job and family services has adopted governing the component, or aspect of the component, that the state agency or political subdivision is to administer, including any rules establishing review, audit, and corrective action plan requirements. A contract with a state agency shall be in the form of an interagency agreement.

A state agency or political subdivision that enters into ~~an interagency agreement a contract~~ with the department under this section shall reimburse the department for the nonfederal share of the cost to the department of performing, or contracting for the performance of, a fiscal audit of the component of the medicaid program, or aspect of the component, that the state agency or political subdivision administers if rules governing the component, or aspect of the component, require that a fiscal audit be conducted.

There is hereby created in the state treasury the medicaid administrative reimbursement fund. The department shall use money in the fund to pay for the nonfederal share of the cost of a fiscal audit for which a state agency or political subdivision is required by this section to reimburse the department. The department shall deposit the reimbursements into the fund.

Sec. 5111.92. (A)(1) Except as provided in division (B) of this section, if a state agency or political subdivision administers one or more components of the medicaid program that the United States department of health and human services approved, and for which federal financial participation was initially obtained, prior to January 1, 2002, or administers one or more aspects of such a component, the department of job and family

services may retain or collect not more than ten per cent of the federal financial participation the state agency or political subdivision obtains through an approved, administrative claim regarding the component or aspect of the component. If the department retains or collects a percentage of such federal financial participation, the percentage the department retains or collects shall be specified in a contract the department enters into with the state agency or political subdivision under section 5111.91 of the Revised Code.

(2) Except as provided in division (B) of this section, if a state agency or political subdivision administers one or more components of the medicaid program that the United States department of health and human services approved on or after January 1, 2002, or administers one or more aspects of such a component, the department of job and family services shall retain or collect not less than three and not more than ten per cent of the federal financial participation the state agency or political subdivision obtains through an approved, administrative claim regarding the component or aspect of the component. The percentage the department retains or collects shall be specified in a contract the department enters into with the state agency or political subdivision under section 5111.91 of the Revised Code.

(B) The department of job and family services may retain or collect a percentage of federal financial participation under divisions (A)(1) and (2) of this section only to the extent permitted by federal statutes and regulations.

(C) All amounts the department retains or collects under this section shall be deposited into the health care services administration fund created under section 5111.94 of the Revised Code.

Sec. 5111.93. The department of job and family services may retain or collect a percentage of the federal financial participation included in a supplemental medicaid payment to one or more medicaid providers owned or operated by a state agency or political subdivision that brings the payment to such provider or providers to the upper payment limit established by 42 C.F.R. 447.272. If the department retains or collects a percentage of that federal financial participation, the department shall adopt a rule under Chapter 119. of the Revised Code specifying the percentage the department is to retain or collect. All amounts the department retains or collects under this section shall be deposited into the health care services administration fund created under section 5111.94 of the Revised Code.

Sec. 5111.94. (A) As used in this section, "vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.

(B) There is hereby created in the state treasury the health care services administration fund. Except as provided in division (C) of this section, all the following shall be deposited into the fund:

(1) Amounts deposited into the fund pursuant to sections 5111.92 and 5111.93 of the Revised Code;

(2) The amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers pursuant to a tort action under the department's right of recovery under section 5101.58 of the Revised Code that exceeds the state share of all money the department, in fiscal year 2002, recovers pursuant to a tort action under that right of recovery;

(3) Subject to division (D) of this section, the amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers through audits of medicaid providers that exceeds the state share of all money the department, in fiscal year 2002, recovers through such audits;

(4) Until October 16, 2003, amounts from assessments on hospitals under section 5112.06 of the Revised Code and intergovernmental transfers by governmental hospitals under section 5112.07 of the Revised Code that are deposited into the fund in accordance with the law.

(C) No funds shall be deposited into the health care services administration fund in violation of federal statutes or regulations.

(D) In determining under division (B)(3) of this section the amount of money the department, in a fiscal year, recovers through audits of medicaid providers, the amount recovered in the form of vendor offset shall be excluded.

(E) The director of job and family services shall use funds available in the health care services administration fund to pay for costs associated with the administration of the medicaid program.

Sec. 5112.01. As used in sections 5112.03 to 5112.21 of the Revised Code:

(A)(1) "Hospital" means a nonfederal hospital to which either of the following applies:

(a) The hospital is registered under section 3701.07 of the Revised Code as a general medical and surgical hospital or a pediatric general hospital, and provides inpatient hospital services, as defined in 42 C.F.R. 440.10;

(b) The hospital is recognized under the medicare program established by Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, as a cancer hospital and is exempt from the medicare prospective payment system.

"Hospital" does not include a hospital operated by a health insuring corporation that has been issued a certificate of authority under section 1751.05 of the Revised Code or a hospital that does not charge patients for services.

(2) "Disproportionate share hospital" means a hospital that meets the definition of a disproportionate share hospital in rules adopted under section 5112.03 of the Revised Code.

(B) "Bad debt," "charity care," "courtesy care," and "contractual allowances" have the same meanings given these terms in regulations adopted under Title XVIII of the "Social Security Act."

(C) "Cost reporting period" means the twelve-month period used by a hospital in reporting costs for purposes of Title XVIII of the "Social Security Act."

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

(E) "Indigent care pool" means the sum of the following:

(1) The total of assessments to be paid in a program year by all hospitals under section 5112.06 of the Revised Code, less the assessments deposited into the legislative budget services fund under section 5112.19 of the Revised Code and into the health care services administration fund created under section 5111.94 of the Revised Code;

(2) The total amount of intergovernmental transfers required to be made in the same program year by governmental hospitals under section 5112.07 of the Revised Code, less the amount of transfers deposited into the legislative budget services fund under section 5112.19 of the Revised Code and into the health care services administration fund created under section 5111.94 of the Revised Code;

(3) The total amount of federal matching funds that will be made available in the same program year as a result of funds distributed by the department of job and family services to hospitals under section 5112.08 of the Revised Code.

(F) "Intergovernmental transfer" means any transfer of money by a governmental hospital under section 5112.07 of the Revised Code.

(G) "Medical assistance program" means the program of medical assistance established under section 5111.01 of the Revised Code and Title XIX of the "Social Security Act."

(H) "Program year" means a period beginning the first day of October, or a later date designated in rules adopted under section 5112.03 of the Revised Code, and ending the thirtieth day of September, or an earlier date

designated in rules adopted under that section.

(I) "Registered beds" means the total number of hospital beds registered with the department of health, as reported in the most recent "directory of registered hospitals" published by the department of health.

(J) "Total facility costs" means the total costs for all services rendered to all patients, including the direct, indirect, and overhead cost to the hospital of all services, supplies, equipment, and capital related to the care of patients, regardless of whether patients are enrolled in a health insuring corporation, excluding costs associated with providing skilled nursing services in distinct-part nursing facility units, as shown on the hospital's cost report filed under section 5112.04 of the Revised Code. Effective October 1, 1993, if rules adopted under section 5112.03 of the Revised Code so provide, "total facility costs" may exclude costs associated with providing care to recipients of any of the governmental programs listed in division (B) of that section.

(K) "Uncompensated care" means bad debt and charity care.

Sec. 5112.06. (A) For the purpose of distributing funds to hospitals under the medical assistance program pursuant to sections 5112.01 to 5112.21 of the Revised Code and depositing funds into the legislative budget services fund under section 5112.19 of the Revised Code and into the health care services administration fund created under section 5111.94 of the Revised Code, there is hereby imposed an assessment on all hospitals. Each hospital's assessment shall be based on total facility costs. All hospitals shall be assessed according to the rate or rates established each program year by the department of job and family services in rules adopted under section 5112.03 of the Revised Code. The department shall assess all hospitals uniformly and in a manner consistent with federal statutes and regulations. During any program year, the department shall not assess any hospital more than two per cent of the hospital's total facility costs.

The department shall establish an assessment rate or rates each program year that will do both of the following:

(1) Yield funds that, when combined with intergovernmental transfers and federal matching funds, will produce a program of sufficient size to pay a substantial portion of the indigent care provided by hospitals;

(2) Yield funds that, when combined with intergovernmental transfers and federal matching funds, will produce amounts for distribution to disproportionate share hospitals that do not exceed, in the aggregate, the limits prescribed by the United States health care financing administration under subsection (f) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(f), as amended.

(B)(1) Except as provided in division (B)(3) of this section, each hospital shall pay its assessment in periodic installments in accordance with a schedule established by the director of job and family services in rules adopted under section 5112.03 of the Revised Code.

(2) The installments shall be equal in amount, unless either of the following applies:

(a) The department makes adjustments during a program year under division (D) of section 5112.09 of the Revised Code in the total amount of hospitals' assessments;

(b) The director of job and family services determines that adjustments in the amounts of installments are necessary for the administration of sections 5112.01 to 5112.21 of the Revised Code and that unequal installments will not create cash flow difficulties for hospitals.

(3) The director may adopt rules under section 5112.03 of the Revised Code establishing alternate schedules for hospitals to pay assessments under this section in order to reduce hospitals' cash flow difficulties.

Sec. 5112.07. (A) The department of job and family services may require governmental hospitals to make intergovernmental transfers each program year for the purpose of distributing funds to hospitals under the medical assistance program pursuant to sections 5112.01 to 5112.21 of the Revised Code and depositing funds into the legislative budget services fund under section 5112.19 of the Revised Code and into the health care services administration fund created under section 5111.94 of the Revised Code. The department shall not require transfers in an amount that, when combined with hospital assessments paid under section 5112.06 of the Revised Code and federal matching funds, produce amounts for distribution to disproportionate share hospitals that, in the aggregate, exceed limits prescribed by the United States health care financing administration under subsection (f) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(f), as amended.

(B) Before or during each program year, the department shall notify each governmental hospital of the amount of the intergovernmental transfer it is required to make during the program year. Each governmental hospital shall make intergovernmental transfers as required by the department under this section in periodic installments, executed by electronic fund transfer, in accordance with a schedule established in rules adopted under section 5112.03 of the Revised Code.

Sec. 5112.11. The Except for moneys deposited into the legislative budget services fund under section 5112.19 of the Revised Code and the health care services administration fund created under section 5111.94 of the

Revised Code, the department of job and family services shall not use money paid to the department under sections 5112.06 and 5112.07 of the Revised Code or money that the department pays to hospitals under section 5112.08 of the Revised Code to replace any funds appropriated by the general assembly for the medical assistance program.

Sec. 5123.041. (A) As used in this section, "habilitation center" means a habilitation center that provides habilitation center services under section 5111.041 of the Revised Code.

(B) The department of mental retardation and developmental disabilities shall do all of the following pursuant to ~~an interagency agreement~~ a contract with the department of job and family services entered into under section 5111.86 5111.91 of the Revised Code:

(1) Certify habilitation centers that meet the certification requirements established by rules adopted by the director of job and family services under section 5111.041 of the Revised Code;

(2) Accept and process medicaid reimbursement claims from habilitation centers providing habilitation center services to medicaid recipients under section 5111.041 of the Revised Code;

(3) With medicaid funds provided to the department from the department of job and family services, pay the medicaid reimbursement claims accepted and processed under division (B)(2) of this section;

(4) Perform the other duties included in the interagency agreement.

(C) The director of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Establish procedures for certification of habilitation centers;

(2) Establish the fee that may be assessed under division (D) of this section;

(3) Specify how the department of mental retardation and developmental disabilities will perform its duties under this section.

(D) The department of mental retardation and developmental disabilities may assess the fee established by rule under division (C)(2) of this section for performing its duties under this section. The fee may be retained from any payment the department makes under division (B)(3) of this section.

Sec. 5126.053. (A) As used in this section, "effective tax rate" ~~has the same meaning as in section 5126.16 of the Revised Code of a county board of mental retardation and developmental disabilities means the quotient obtained by dividing (1) the total taxes charged and payable for a tax year from a tax levied pursuant to division (L) of section 5705.19 or section 5705.191 or 5705.222 of the Revised Code, after the reduction prescribed by~~

section 319.301 of the Revised Code but before the reduction prescribed by section 319.302 or 323.152 of the Revised Code, by (2) the county board's taxable value for that tax year, as reported under division (B)(1) of section 5126.18 of the Revised Code.

(B) Notwithstanding sections 5126.12 and 5126.15 of the Revised Code with regard to the distribution of state subsidies to county boards of mental retardation and developmental disabilities, the department of mental retardation and developmental disabilities shall, except as provided in division (D) of this section, reduce the funds provided under those sections to a county board in each year that the board, on the first day of January of that year, has an effective tax rate of less than one and one-half mills for general operations for programs under which the board provides or arranges the following:

(1) Early childhood services pursuant to section 5126.05 of the Revised Code for children under age three;

(2) Adult services pursuant to section 5126.05 and division (B) of section 5126.051 of the Revised Code for individuals age sixteen or older;

(3) Service and support administration pursuant to section 5126.15 of the Revised Code.

(C) If a county board is subject to the reduction required by this section, payments to the county board under sections 5126.12 and 5126.15 of the Revised Code shall be made in the same percentage that the board's effective tax rate is of one and one-half mills.

(D) A county board subject to the reduction required by this section may appeal to the department for an exemption from the reduction. The board may present evidence of its attempts to obtain passage of levies and any other extenuating circumstances the board considers relevant. The department shall grant an exemption if it determines that the board has made good faith efforts to obtain an effective tax rate of at least one and one-half mills for general operations for programs under which the services described in division (B) of this section are provided and arranged or that there are extenuating circumstances.

(E) Upon the request of the department, each county auditor shall certify to the department the amount of taxes charged and payable as described in division (A) of this section for the most recent tax year for which such information is available.

Sec. 5126.17 5126.18. (A) As used in this section:

(1) "County board" means a county board of mental retardation and developmental disabilities.

s" means the following services, as they are identified on individual information forms submitted by county boards to the department of mental retardation and developmental disabilities for the purpose of subsidies paid to county boards under section 5126.12 of the Revised Code, provided to an individual with mental retardation or other developmental disability who is at least twenty-two years of age:

- (a) Assessment;
- (b) Home service;
- (c) Adult program;
- (d) Community employment services;
- (e) Retirement.

(3) "Adult services enrollment" means a county board's average daily membership in adult services, exclusive of such services provided to individuals served solely through service and support administration provided pursuant to section 5126.15 of the Revised Code or family support services provided pursuant to section 5126.11 of the Revised Code.

(4) "Taxable value" means the taxable value of a county board certified under division (B)(1) of this section.

(5) "Per-mill yield" of a county board means the quotient obtained by dividing (a) the taxable value of the county board by (b) one thousand.

(6) "Local adult services cost" means a county board's expenditures for adult services, excluding all federal and state reimbursements and subsidy allocations received by such boards and expended for such services, as certified under section 5126.12 of the Revised Code.

(7) "Statewide average millage" means one thousand multiplied by the quotient obtained by dividing (a) the total of the local adult services costs of all county boards by (b) the total of the taxable values of all county boards.

(8) "County yield" of a county board means the product obtained by multiplying (a) the statewide average millage by (b) the per-mill yield of the county board.

(9) "County yield per enrollee" of a county board means the quotient obtained by dividing (a) the county yield of the county board by (b) the adult enrollment of the county board.

(10) "Statewide yield per enrollee" means the quotient obtained by dividing (a) the sum of the county yields of all county boards by (b) the sum of the adult enrollments of all county boards.

(11) "Local tax effort for adult services" of a county board means one thousand multiplied by the quotient obtained by dividing (a) the local adult services cost of the county board by (b) the taxable value of the county board.

(12) "Funding percentage" for a fiscal year means the percentage that the amount appropriated to the department for the purpose of making payments under this section in the fiscal year is of the amount computed under division (C)(3) of this section for the fiscal year.

(13) "Funding-adjusted required millage" for a fiscal year means the statewide average millage multiplied by the funding percentage for that fiscal year.

(B)(1) On the request of the director of mental retardation and developmental disabilities, the tax commissioner shall provide to the department of mental retardation and developmental disabilities information specifying each county's the taxable value.

(2) On request of the director, each county auditor shall submit a certified report to the department specifying the county's taxes and the aggregate rate of tax authorized to be levied by the board of county commissioners pursuant to division (L) of section 5705.19 and section 5705.222 of the Revised Code or the aggregate rate of tax authorized pursuant to that division and that section and certified to the county auditor under section 319.30 of the Revised Code. Tax information submitted by the county auditor shall be obtained from the most recent tax year for which the information is available.

(3) The of property on each county's tax list of real and public utility property and tax list of personal property for the most recent tax year for which such information is available. The director may request any other tax information necessary for the purposes of sections 5126.16 to 5126.18 of the Revised Code this section.

(B) Using the information obtained under this section and each board's enrollment, the department shall annually determine the hypothetical statewide average revenue per enrollee and, for each county board, the hypothetical local revenue per enrollee.

(2) On the request of the director, each county board shall report the county board's adult services enrollment and local adult services cost.

(C) Each year, the department of mental retardation and developmental disabilities shall compute the following:

(1) For each county board, the amount, if any, by which the statewide yield per enrollee exceeds the county yield per enrollee;

(2) For each county board, the amount of any excess computed under division (C)(1) of this section multiplied by the adult services enrollment of the county board;

(3) The sum of the amounts computed under division (C)(2) of this section for all county boards.

(D) From money appropriated for the purpose, the department, on or before the thirtieth day of September of each year, shall provide for payment to each county board of the amount computed for that county board under division (C)(2) of this section, subject to any reduction or adjustment under division (E), (F), or (G) of this section.

(E) If a county board's local tax effort for adult services is less than the funding-adjusted required millage, the director shall reduce the amount of payment otherwise computed under division (C)(2) of this section so that the amount paid, after the reduction, is the same percentage of the amount computed under division (C)(2) of this section as the county board's local tax effort for adult services is of the funding-adjusted required millage.

If the director reduces the amount of a county board's payment under this division, the department, not later than the fifteenth day of July, shall notify the county board of the reduction and the amount of the reduction. The notice shall include a statement that the county board may request to be exempted from the reduction by filing a request with the director, in the manner and form prescribed by the director, within twenty-one days after such notification is issued. The board may present evidence of its attempt to obtain passage of levies or any other extenuating circumstances the board considers relevant. If the county board requests a hearing before the director to present such evidence, the director shall conduct a hearing on the request unless the director exempts the board from the reduction on the basis of the evidence presented in the request filed by the board. Upon receiving a properly and timely filed request for exemption, but not later than the thirty-first day of August, the director shall determine whether the county board shall be exempted from all or a part of the reduction. The director may exempt the board from all or part of the reduction if the director finds that the board has made good faith efforts to obtain passage of tax levies or that there are extenuating circumstances.

(F) If a payment is reduced under division (E) of this section and the director does not exempt the county board from the reduction, the amount of the reduction shall be apportioned among all county boards entitled to payments under this section for which payments were not so reduced. The amount apportioned to each county board shall be proportionate to the amount of the board's payment as computed under division (C)(2) of this section.

(G) If, for any fiscal year, the amount appropriated to the department for the purpose of this section is less than the amount computed under division (C)(3) of this section for the fiscal year, the department shall adjust the amount of each payment as computed under divisions (C)(2), (E), and (F) of

this section by multiplying that amount by the funding percentage.

(H) The payments authorized by this section are supplemental to all other funds that may be received by a county board. A county board shall use the payments solely to pay the nonfederal share of medicaid expenditures that division (A) of section 5126.057 of the Revised Code requires the county board to pay.

Sec. 5733.01. (A) The tax provided by this chapter for domestic corporations shall be the amount charged against each corporation organized for profit under the laws of this state and each nonprofit corporation organized pursuant to Chapter 1729. of the Revised Code, except as provided in sections 5733.09 and 5733.10 of the Revised Code, for the privilege of exercising its franchise during the calendar year in which that amount is payable, and the tax provided by this chapter for foreign corporations shall be the amount charged against each corporation organized for profit and each nonprofit corporation organized or operating in the same or similar manner as nonprofit corporations organized under Chapter 1729. of the Revised Code, under the laws of any state or country other than this state, except as provided in sections 5733.09 and 5733.10 of the Revised Code, for the privilege of doing business in this state, owning or using a part or all of its capital or property in this state, holding a certificate of compliance with the laws of this state authorizing it to do business in this state, or otherwise having nexus in or with this state under the Constitution of the United States, during the calendar year in which that amount is payable.

(B) A corporation is subject to the tax imposed by section 5733.06 of the Revised Code for each calendar year that it is so organized, doing business, owning or using a part or all of its capital or property, holding a certificate of compliance, or otherwise having nexus in or with this state under the Constitution of the United States, on the first day of January of that calendar year.

(C) Any corporation subject to this chapter that is not subject to the federal income tax shall file its returns and compute its tax liability as required by this chapter in the same manner as if that corporation were subject to the federal income tax.

(D) For purposes of this chapter, a federally chartered financial institution shall be deemed to be organized under the laws of the state within which its principal office is located.

(E) Any person, as defined in section 5701.01 of the Revised Code, shall be treated as a corporation for purposes of this chapter if the person is classified for federal income tax purposes as an association taxable as a

corporation.

(F) For the purposes of this chapter, "disregarded entity" has the same meaning as in division (D) of section 5745.01 of the Revised Code.

(1) A person's interest in a disregarded entity, whether held directly or indirectly, shall be treated as the person's ownership of the assets and liabilities of the disregarded entity, and the income, including gain or loss, shall be included in the person's net income under this chapter.

(2) Any sale, exchange, or other disposition of the person's interest in the disregarded entity, whether held directly or indirectly, shall be treated as a sale, exchange, or other disposition of the person's share of the disregarded entity's underlying assets or liabilities, and the gain or loss from such sale, exchange, or disposition shall be included in the person's net income under this chapter.

(3) The disregarded entity's payroll, property, and sales factors shall be included in the person's factors.

Sec. 5733.04. As used in this chapter:

(A) "Issued and outstanding shares of stock" applies to nonprofit corporations, as provided in section 5733.01 of the Revised Code, and includes, but is not limited to, membership certificates and other instruments evidencing ownership of an interest in such nonprofit corporations, and with respect to a financial institution that does not have capital stock, "issued and outstanding shares of stock" includes, but is not limited to, ownership interests of depositors in the capital employed in such an institution.

(B) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code.

(C) "Resident" means a corporation organized under the laws of this state.

(D) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(E) "Taxable year" means the period prescribed by division (A) of section 5733.031 of the Revised Code upon the net income of which the value of the taxpayer's issued and outstanding shares of stock is determined under division (B) of section 5733.05 of the Revised Code or the period prescribed by division (A) of section 5733.031 of the Revised Code that immediately precedes the date as of which the total value of the corporation is determined under division (A) or (C) of section 5733.05 of the Revised Code.

(F) "Tax year" means the calendar year in and for which the tax imposed by section 5733.06 of the Revised Code is required to be paid.

(G) "Internal Revenue Code" means the "Internal Revenue Code of

1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code.

(I) Except as provided in section 5733.058 of the Revised Code, "net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments:

(1)(a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter but exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I)(1)(b) of this section. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code, to the extent necessary to reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I)(1)(b) of this section, or until fully utilized, whichever occurs first.

(b) For losses incurred in taxable years ending on or before December 31, 1981, the designated carryover period shall be the five consecutive taxable years after the taxable year in which the net operating loss occurred. For losses incurred in taxable years ending on or after January 1, 1982, the designated carryover period shall be the fifteen consecutive taxable years after the taxable year in which the net operating loss occurs.

(c) The tax commissioner may require a taxpayer to furnish any information necessary to support a claim for deduction under division (I)(1)(a) of this section and no deduction shall be allowed unless the information is furnished.

(2) Deduct any amount included in net income by application of section 78 or 951 of the Internal Revenue Code, amounts received for royalties, technical or other services derived from sources outside the United States, and dividends received from a subsidiary, associate, or affiliated corporation

that neither transacts any substantial portion of its business nor regularly maintains any substantial portion of its assets within the United States. For purposes of determining net foreign source income deductible under division (I)(2) of this section, the amount of gross income from all such sources other than dividend income and income derived by application of section 78 or 951 of the Internal Revenue Code shall be reduced by:

- (a) The amount of any reimbursed expenses for personal services performed by employees of the taxpayer for the subsidiary, associate, or affiliated corporation;
- (b) Ten per cent of the amount of royalty income and technical assistance fees;
- (c) Fifteen per cent of the amount of dividends and all other income.

The amounts described in divisions (I)(2)(a) to (c) of this section are deemed to be the expenses attributable to the production of deductible foreign source income unless the taxpayer shows, by clear and convincing evidence, less actual expenses, or the tax commissioner shows, by clear and convincing evidence, more actual expenses.

(3) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of a capital asset, or an asset described in section 1231 of the Internal Revenue Code, to the extent that such loss or gain occurred prior to the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. For purposes of division (I)(3) of this section, the amount of the prior loss or gain shall be measured by the difference between the original cost or other basis of the asset and the fair market value as of the beginning of the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. At the option of the taxpayer, the amount of the prior loss or gain may be a percentage of the gain or loss, which percentage shall be determined by multiplying the gain or loss by a fraction, the numerator of which is the number of months from the acquisition of the asset to the beginning of the first taxable year on which the fee provided in section 5733.06 of the Revised Code is computed on the corporation's net income, and the denominator of which is the number of months from the acquisition of the asset to the sale, exchange, or other disposition of the asset. The adjustments described in this division do not apply to any gain or loss where the gain or loss is recognized by a qualifying taxpayer, as defined in section 5733.0510 of the Revised Code, with respect to a qualifying taxable event, as defined in that section.

(4) Deduct the dividend received deduction provided by section 243 of the Internal Revenue Code.

(5) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income. As used in divisions (I)(5) and (6) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(6) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent included in federal taxable income.

(7) To the extent not otherwise allowed, deduct any dividends or distributions received by a taxpayer from a public utility, excluding an electric company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the public utility. As used in division (I)(7) of this section, "public utility" means a public utility as defined in Chapter 5727. of the Revised Code, whether or not the public utility is doing business in the state.

(8) To the extent not otherwise allowed, deduct any dividends received by a taxpayer from an insurance company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the insurance company. As used in division (I)(8) of this section, "insurance company" means an insurance company that is taxable under Chapter 5725. or 5729. of the Revised Code.

(9) Deduct expenditures for modifying existing buildings or structures to meet American national standards institute standard A-117.1-1961 (R-1971), as amended; provided, that no deduction shall be allowed to the extent that such deduction is not permitted under federal law or under rules of the tax commissioner. Those deductions as are allowed may be taken over a period of five years. The tax commissioner shall adopt rules under Chapter 119. of the Revised Code establishing reasonable limitations on the extent that expenditures for modifying existing buildings or structures are attributable to the purpose of making the buildings or structures accessible to and usable by physically handicapped persons.

(10) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income before operating loss deduction and special deductions for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(11) Deduct net interest income on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent the laws of the United

States prohibit inclusion of the net interest for purposes of determining the value of the taxpayer's issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code. As used in division (I)(11) of this section, "net interest" means interest net of any expenses taken on the federal income tax return that would not have been allowed under section 265 of the Internal Revenue Code if the interest were exempt from federal income tax.

(12)(a) Except as set forth in division (I)(12)(d) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions, made by a related entity who is not a taxpayer, of the taxpayer's indirect, beneficial, or constructive investment in the stock or debt of another entity, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related investment in the stock or debt of the other entity. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(b) Except as set forth in division (I)(12)(e) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions made by a related entity who is not a taxpayer, of intangible property other than stock, securities, and debt, if such property was owned, or used in whole or in part, at any time prior to or at the time of the sale, exchange, or disposition by either the taxpayer or by a related entity that was a taxpayer at any time during the related entity's ownership or use of such property, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related ownership or use of such intangible property. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(c) As used in division (I)(12) of this section, "related entity" means those entities described in divisions (I)(12)(c)(i) to (iii) of this section:

(i) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(ii) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, and corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(iii) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (I)(12)(c)(iv) of this section, if the taxpayer owns, directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock.

(iv) The attribution rules of section 318 of the Internal Revenue Code apply for purposes of determining whether the ownership requirements in divisions (I)(12)(c)(i) to (iii) of this section have been met.

(d) For purposes of the adjustments required by division (I)(12)(a) of this section, the term "investment in the stock or debt of another entity" means only those investments where the taxpayer and the taxpayer's related entities directly, indirectly, beneficially, or constructively own, in the aggregate, at any time during the twenty-four month period commencing one year prior to the direct or indirect sale, exchange, or other disposition of such investment at least fifty per cent or more of the value of either the outstanding stock or such debt of such other entity.

(e) For purposes of the adjustments required by division (I)(12)(b) of this section, the term "related entity" excludes all of the following:

(i) Foreign corporations as defined in section 7701 of the Internal Revenue Code;

(ii) Foreign partnerships as defined in section 7701 of the Internal Revenue Code;

(iii) Corporations, partnerships, estates, and trusts created or organized in or under the laws of the Commonwealth of Puerto Rico or any possession of the United States;

(iv) Foreign estates and foreign trusts as defined in section 7701 of the Internal Revenue Code.

The exclusions described in divisions (I)(12)(e)(i) to (iv) of this section do not apply if the corporation, partnership, estate, or trust is described in any one of divisions (C)(1) to (5) of section 5733.042 of the Revised Code.

(f) Nothing in division (I)(12) of this section shall require or permit a taxpayer to add any gains or deduct any losses described in divisions (I)(12)(f)(i) and (ii) of this section:

(i) Gains or losses recognized for federal income tax purposes by an individual, estate, or trust without regard to the attribution rules described in division (I)(12)(c) of this section;

(ii) A related entity's gains or losses described in division (I)(12)(b) of this section if the taxpayer's ownership of or use of such intangible property was limited to a period not exceeding nine months and was attributable to a transaction or a series of transactions executed in accordance with the election or elections made by the taxpayer or a related entity pursuant to section 338 of the Internal Revenue Code.

(13) Any adjustment required by section 5733.042 of the Revised Code.

(14) Add any amount claimed as a credit under section 5733.0611 of the Revised Code to the extent that such amount satisfies either of the following:

(a) It was deducted or excluded from the computation of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for the corporation's taxable year under the Internal Revenue Code;

(b) It resulted in a reduction of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for any of the corporation's taxable years under the Internal Revenue Code.

(15) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (I)(15) of this section.

(16) Any adjustment required by section 5733.0510 of the Revised Code.

(17)(a) Add five-sixths of the amount of depreciation expense allowed under subsection (k) of section 168 of the Internal Revenue Code, including a person's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to any pass-through entity in which the person has direct or indirect ownership. The tax commissioner, under procedures established by the commissioner, may waive the add-back related to a pass-through entity if the person owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (I)(17) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back is attributable to property generating income or loss allocable under section 5733.051 of the Revised Code, the add-back shall be allocated to the same location as the income or loss generated by that property. Otherwise, the add-back shall be apportioned, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(18)(a) If a person is required to make the add-back under division (I)(17)(a) of this section for a tax year, the person shall deduct one-fifth of the amount added back for each of the succeeding five tax years.

(b) If the amount deducted under division (I)(18)(a) of this section is attributable to an add-back allocated under division (I)(17)(c) of this section, the amount deducted shall be allocated to the same location. Otherwise, the amount shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(J) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(K) "Financial institution" has the meaning given by section 5725.01 of the Revised Code but does not include a production credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091.

(L)(1) A "qualifying holding company" is any corporation satisfying all of the following requirements:

(a) Subject to divisions (L)(2) and (3) of this section, the net book value of the corporation's intangible assets is greater than or equal to ninety per cent of the net book value of all of its assets and at least fifty per cent of the net book value of all of its assets represents direct or indirect investments in the equity of, loans and advances to, and accounts receivable due from related members;

(b) At least ninety per cent of the corporation's gross income for the taxable year is attributable to the following:

(i) The maintenance, management, ownership, acquisition, use, and disposition of its intangible property, its aircraft the use of which is not subject to regulation under 14 C.F.R. part 121 or part 135, and any real property described in division (L)(2)(c) of this section;

(ii) The collection and distribution of income from such property.

(c) The corporation is not a financial institution on the last day of the

taxable year ending prior to the first day of the tax year;

(d) The corporation's related members make a good faith and reasonable effort to make timely and fully the adjustments required by division (C)(2) of section 5733.05 of the Revised Code and to pay timely and fully all uncontested taxes, interest, penalties, and other fees and charges imposed under this chapter;

(e) Subject to division (L)(4) of this section, the corporation elects to be treated as a qualifying holding company for the tax year.

A corporation otherwise satisfying divisions (L)(1)(a) to (e) of this section that does not elect to be a qualifying holding company is not a qualifying holding company for the purposes of this chapter.

(2)(a)(i) For purposes of making the ninety per cent computation under division (L)(1)(a) of this section, the net book value of the corporation's assets shall not include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(ii) For purposes of making the fifty per cent computation under division (L)(1)(a) of this section, the net book value of assets shall include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(b)(i) As used in division (L) of this section, "intangible asset" includes, but is not limited to, the corporation's direct interest in each pass-through entity only if at all times during the corporation's taxable year ending prior to the first day of the tax year the corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of such pass-through entity do not exceed fifty per cent. If the corporation's interest in the pass-through entity is an intangible asset for that taxable year, then the distributive share of any income from the pass-through entity shall be income from an intangible asset for that taxable year.

(ii) If a corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of a pass-through entity exceed fifty per cent at any time during the corporation's taxable year ending prior to the first day of the tax year, "intangible asset" does not include the corporation's direct interest in the pass-through entity, and the corporation shall include in its assets its proportionate share of the assets of any such pass-through entity and shall include in its gross income its distributive share of the gross income of such pass-through entity in the same form as was earned by the pass-through entity.

(iii) A pass-through entity's direct or indirect proportionate share of any other pass-through entity's assets shall be included for the purpose of computing the corporation's proportionate share of the pass-through entity's

assets under division (L)(2)(b)(ii) of this section, and such pass-through entity's distributive share of any other pass-through entity's gross income shall be included for purposes of computing the corporation's distributive share of the pass-through entity's gross income under division (L)(2)(b)(ii) of this section.

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), (2)(a)(i), and (2)(a)(ii) of this section, real property is described in division (L)(2)(c) of this section only if all of the following conditions are present at all times during the taxable year ending prior to the first day of the tax year:

(i) The real property serves as the headquarters of the corporation's trade or business, or is the place from which the corporation's trade or business is principally managed or directed;

(ii) Not more than ten per cent of the value of the real property and not more than ten per cent of the square footage of the building or buildings that are part of the real property is used, made available, or occupied for the purpose of providing, acquiring, transferring, selling, or disposing of tangible property or services in the normal course of business to persons other than related members, the corporation's employees and their families, and such related members' employees and their families.

(d) As used in division (L) of this section, "related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.

(3) The percentages described in division (L)(1)(a) of this section shall be equal to the quarterly average of those percentages as calculated during the corporation's taxable year ending prior to the first day of the tax year.

(4) With respect to the election described in division (L)(1)(e) of this section:

(a) The election need not accompany a timely filed report;

(b) The election need not accompany the report; rather, the election may accompany a subsequently filed but timely application for refund and timely amended report, or a subsequently filed but timely petition for reassessment;

(c) The election is not irrevocable;

(d) The election applies only to the tax year specified by the corporation;

(e) The corporation's related members comply with division (L)(1)(d) of this section.

Nothing in division (L)(4) of this section shall be construed to extend any statute of limitations set forth in this chapter.

(M) "Qualifying controlled group" means two or more corporations that satisfy the ownership and control requirements of division (A) of section

5733.052 of the Revised Code.

(N) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(O) "Pass-through entity" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code, or a partnership, limited liability company, or any other person, other than an individual, trust, or estate, if the partnership, limited liability company, or other person is not classified for federal income tax purposes as an association taxed as a corporation.

(P) "Electric company" and "combined company" have the same meanings as in section 5727.01 of the Revised Code.

Sec. 5733.40. As used in sections 5733.40 and 5733.41 and Chapter 5747. of the Revised Code:

(A)(1) "Adjusted qualifying amount" means either of the following:

(a) The ~~net~~ sum of a qualifying investor's distributive share of the income, gain, expense, or loss of a qualifying pass-through entity for the qualifying taxable year of the qualifying pass-through entity multiplied by the apportionment fraction defined in division (B) of this section, subject to section 5733.401 of the Revised Code and divisions (A)(2) to ~~(6)(7)~~ of this section;

(b) The sum of a qualifying beneficiary's share of the qualifying net income and qualifying net gain distributed by a qualifying trust for the qualifying taxable year of the qualifying trust multiplied by the apportionment fraction defined in division (B) of this section, subject to section 5733.401 of the Revised Code and divisions (A)(2) to ~~(5)(6)~~ of this section.

(2) The sum shall exclude any amount which, pursuant to the Constitution of the United States, the Constitution of Ohio, or any federal law is not subject to a tax on or measured by net income.

(3) The sum shall be increased by all amounts representing expenses other than amounts described in division (A)~~(6)(7)~~ of this section that the ~~taxpayer~~ qualifying entity paid to or incurred with respect to direct or indirect transactions with one or more related members, excluding the cost of goods sold calculated in accordance with section 263A of the Internal Revenue Code and United States department of the treasury regulations issued thereunder. Nothing in division (A)(3) of this section shall be construed to limit solely to this chapter the application of section 263A of the Internal Revenue Code and United States department of the treasury regulations issued thereunder.

(4) The sum shall be increased by all recognized losses, other than losses from sales of inventory the cost of which is calculated in accordance with section 263A of the Internal Revenue Code and United States department of the treasury regulations issued thereunder, with respect to all direct or indirect transactions with one or more related members. Losses from the sales of such inventory shall be calculated in accordance with section 482 of the Internal Revenue Code and United States department of the treasury regulations issued thereunder. Nothing in division (A)(4) of this section shall be construed to limit solely to this section the application of section 263A and section 482 of the Internal Revenue Code and United States department of the treasury regulations issued thereunder.

(5) The sum shall be increased or decreased by an amount equal to the qualifying investor's or qualifying beneficiary's distributive or proportionate share of the amount that the qualifying entity would be required to add or deduct under divisions (A)(20) and (21) of section 5747.01 of the Revised Code if the qualifying entity were a taxpayer for the purposes of Chapter 5747. of the Revised Code, multiplied by the apportionment fraction for the qualifying entity's taxable year for which the addition or deduction would be required to be made.

(6) The sum shall be computed without regard to section 5733.051 or division (D) of section 5733.052 of the Revised Code.

(6)(7) For the purposes of Chapters 5733. and 5747. of the Revised Code, guaranteed payments ~~made or compensation paid to investors~~ by a ~~partnership or by a limited liability company~~ ~~qualifying entity~~ that is not subject to the tax imposed by section 5733.06 of the Revised Code, ~~and compensation paid by an S corporation to its shareholders~~, shall be considered a distributive share of income of the ~~partnership, limited liability company, or S corporation~~ ~~qualifying entity~~. Division (A)(6)(7) of this section applies only to such payments or such compensation ~~made or~~ paid to an investor who at any time during the qualifying entity's taxable year holds at least a twenty per cent direct or indirect interest in the profits or capital of the qualifying entity.

(B) "Apportionment fraction" means:

(1) With respect to a qualifying pass-through entity other than a financial institution, the fraction calculated pursuant to division (B)(2) of section 5733.05 of the Revised Code as if the qualifying pass-through entity were a corporation subject to the tax imposed by section 5733.06 of the Revised Code;

(2) With respect to a qualifying pass-through entity that is a financial institution, the fraction calculated pursuant to division (C) of section

56 of the Revised Code as if the qualifying pass-through entity were a financial institution subject to the tax imposed by section 5733.06 of the Revised Code.

(3) With respect to a qualifying trust, the fraction calculated pursuant to division (B)(2) of section 5733.05 of the Revised Code as if the qualifying trust were a corporation subject to the tax imposed by section 5733.06 of the Revised Code, except that the property, payroll, and sales fractions shall be calculated by including in the numerator and denominator of the fractions only the property, payroll, and sales, respectively, directly related to the production of income or gain from acquisition, ownership, use, maintenance, management, or disposition of tangible personal property located in this state at any time during the qualifying trust's qualifying taxable year or of real property located in this state.

(C) "Qualifying beneficiary" means any individual that, during the qualifying taxable year of a qualifying trust, is a beneficiary of that trust, but does not include an individual who is a resident taxpayer for the purposes of Chapter 5747. of the Revised Code for the entire qualifying taxable year of the qualifying trust.

(D) "Fiscal year" means an accounting period ending on any day other than the thirty-first day of December.

(E) "Individual" means a natural person.

(F) "Month" means a calendar month.

(G) "Partnership" has the same meaning as in section 5747.01 of the Revised Code.

(H) "Investor" means any person that, during any portion of a taxable year of a qualifying pass-through entity, is a partner, member, shareholder, or investor in that qualifying pass-through entity.

(I) Except as otherwise provided in section 5733.402 or 5747.401 of the Revised Code, "qualifying investor" means any investor except those described in divisions (I)(1) to (9) of this section.

(1) An investor satisfying one of the descriptions under section 501(a) or (c) of the Internal Revenue Code, an electing small business trust, a partnership with equity securities registered with the United States securities and exchange commission under section 12 of the "Securities Exchange Act of 1934," as amended, or an investor described in division (F) of section 3334.01, or division (A) or (C) of section 5733.09 of the Revised Code for the entire qualifying taxable year of the qualifying pass-through entity.

(2) An investor who is either an individual or an estate and is a resident taxpayer for the purposes of section 5747.01 of the Revised Code for the entire qualifying taxable year of the qualifying pass-through entity.

(3) An investor who is an individual for whom the qualifying pass-through entity makes a good faith and reasonable effort to comply fully and timely with the filing and payment requirements set forth in division (D) of section 5747.08 of the Revised Code and section 5747.09 of the Revised Code with respect to the individual's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity.

(4) An investor that is another qualifying pass-through entity having only investors described in division (I)(1), (2), (3), or (6) of this section during the three-year period beginning twelve months prior to the first day of the qualifying taxable year of the qualifying pass-through entity.

(5) An investor that is another pass-through entity having no investors other than individuals and estates during the qualifying taxable year of the qualifying pass-through entity in which it is an investor, and that makes a good faith and reasonable effort to comply fully and timely with the filing and payment requirements set forth in division (D) of section 5747.08 of the Revised Code and section 5747.09 of the Revised Code with respect to investors that are not resident taxpayers of this state for the purposes of Chapter 5747. of the Revised Code for the entire qualifying taxable year of the qualifying pass-through entity in which it is an investor.

(6) An investor that is a financial institution required to calculate the tax in accordance with division (D) of section 5733.06 of the Revised Code on the first day of January of the calendar year immediately following the last day of the financial institution's calendar or fiscal year in which ends the taxpayer's taxable year.

(7) An investor other than an individual that satisfies all the following:

(a) The investor submits a written statement to the qualifying pass-through entity stating that the investor irrevocably agrees that the investor has nexus with this state under the Constitution of the United States and is subject to and liable for the tax calculated under division (B) of section 5733.06 of the Revised Code with respect to the investor's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity. The statement is subject to the penalties of perjury, shall be retained by the qualifying pass-through entity for no fewer than seven years, and shall be delivered to the tax commissioner upon request.

(b) The investor makes a good faith and reasonable effort to comply timely and fully with all the reporting and payment requirements set forth in Chapter 5733. of the Revised Code with respect to the investor's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity.

(c) Neither the investor nor the qualifying pass-through entity in which

it is an investor, before, during, or after the qualifying pass-through entity's qualifying taxable year, carries out any transaction or transactions with one or more related members of the investor or the qualifying pass-through entity resulting in a reduction or deferral of tax imposed by Chapter 5733. of the Revised Code with respect to all or any portion of the investor's adjusted qualifying amount for the qualifying pass-through entity's taxable year, or that constitute a sham, lack economic reality, or are part of a series of transactions the form of which constitutes a step transaction or transactions or does not reflect the substance of those transactions.

(8) Any other investor that the tax commissioner may designate by rule. The tax commissioner may adopt rules including a rule defining "qualifying investor" or "qualifying beneficiary" and governing the imposition of the withholding tax imposed by section 5747.41 of the Revised Code with respect to an individual who is a resident taxpayer for the purposes of Chapter 5747. of the Revised Code for only a portion of the qualifying taxable year of the qualifying entity.

(9) An investor that is a trust or fund the beneficiaries of which, during the qualifying taxable year of the qualifying pass-through entity, are limited to the following:

(a) A person that is or may be the beneficiary of a trust subject to Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code.

(b) A person that is or may be the beneficiary of or the recipient of payments from a trust or fund that is a nuclear decommissioning reserve fund, a designated settlement fund, or any other trust or fund established to resolve and satisfy claims that may otherwise be asserted by the beneficiary or a member of the beneficiary's family. Sections 267(c)(4), 468A(e), and 468B(d)(2) of the Internal Revenue Code apply to the determination of whether such a person satisfies division (I)(9) of this section.

(c) A person who is or may be the beneficiary of a trust that, under its governing instrument, is not required to distribute all of its income currently. Division (I)(9)(c) of this section applies only if the trust, prior to the due date for filing the qualifying pass-through entity's return for taxes imposed by section 5733.41 and sections 5747.41 to 5747.453 of the Revised Code, irrevocably agrees in writing that for the taxable year during or for which the trust distributes any of its income to any of its beneficiaries, the trust is a qualifying trust and will pay the estimated tax, and will withhold and pay the withheld tax, as required under sections 5747.40 to 5747.453 of the Revised Code.

For the purposes of division (I)(9) of this section, a trust or fund shall be considered to have a beneficiary other than persons described under

divisions (I)(9)(a) to (c) of this section if a beneficiary would not qualify under those divisions under the doctrines of "economic reality," "sham transaction," "step doctrine," or "substance over form." A trust or fund described in division (I)(9) of this section bears the burden of establishing by a preponderance of the evidence that any transaction giving rise to the tax benefits provided under division (I)(9) of this section does not have as a principal purpose a claim of those tax benefits. Nothing in this section shall be construed to limit solely to this section the application of the doctrines referred to in this paragraph.

(J) "Qualifying net gain" means any recognized net gain with respect to the acquisition, ownership, use, maintenance, management, or disposition of tangible personal property located in this state at any time during a trust's qualifying taxable year or real property located in this state.

(K) "Qualifying net income" means any recognized income, net of related deductible expenses, other than distributions deductions with respect to the acquisition, ownership, use, maintenance, management, or disposition of tangible personal property located in this state at any time during the trust's qualifying taxable year or real property located in this state.

(L) "Qualifying entity" means a qualifying pass-through entity or a qualifying trust.

(M) "Qualifying trust" means a trust subject to subchapter J of the Internal Revenue Code that, during any portion of the trust's qualifying taxable year, has income or gain from the acquisition, management, ownership, use, or disposition of tangible personal property located in this state at any time during the trust's qualifying taxable year or real property located in this state. "Qualifying trust" does not include a person described in section 501(c) of the Internal Revenue Code or a person described in division (C) of section 5733.09 of the Revised Code.

(N) "Qualifying pass-through entity" means a pass-through entity as defined in section 5733.04 of the Revised Code, excluding a person described in section 501(c) of the Internal Revenue Code, a partnership with equity securities registered with the United States securities and exchange commission under section 12 of the Securities Exchange Act of 1934, as amended, or a person described in division (C) of section 5733.09 of the Revised Code.

(O) "Quarter" means the first three months, the second three months, the third three months, or the last three months of a qualifying entity's qualifying taxable year.

(P) "Related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that

section. However, for the purposes of divisions (A)(3) and (4) of this section only, "related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section, but shall be applied by substituting "forty per cent" for "twenty per cent" wherever "twenty per cent" appears in division (A) of that section.

(Q) "Return" or "report" means the notifications and reports required to be filed pursuant to sections 5747.42 to 5747.45 of the Revised Code for the purpose of reporting the tax imposed under section 5733.41 or 5747.41 of the Revised Code, and included declarations of estimated tax when so required.

(R) "Qualifying taxable year" means the calendar year or the qualifying entity's fiscal year ending during the calendar year, or fractional part thereof, for which the adjusted qualifying amount is calculated pursuant to sections 5733.40 and 5733.41 or sections 5747.40 to 5747.453 of the Revised Code.

(S) "Distributive share" includes the sum of the income, gain, expense, or loss of a disregarded entity.

Sec. 5740.03. Subject to section 5740.05 of the Revised Code, the tax commissioner may enter into the agreement with one or more states, provided that the general assembly, by adoption of a concurrent resolution, first authorizes the tax commissioner to enter into the agreement. In furtherance of the agreement, the commissioner may act jointly with other member states to establish standards for certification of service providers and automated systems, establish performance standards for multi-state sellers, and procure goods and services. The commissioner may take other actions reasonably required to implement this chapter, including adopting rules.

Sec. 5743.02. To provide revenues for the general revenue fund, an excise tax on sales of cigarettes is hereby levied at the rate of eleven twenty-seven and one-half mills on each cigarette.

Only one sale of the same article shall be used in computing the amount of tax due.

The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of receipts from the tax levied by this section, amounts equal to the refunds certified by the tax commissioner pursuant to section 5743.05 of the Revised Code. The balance of taxes collected under such section, after the credits to the tax refund fund, shall be paid into the general revenue fund.

Sec. 5743.03. Except as provided in section 5743.04 of the Revised Code, the taxes imposed under sections 5743.02, ~~5743.023~~, 5743.024, and 5743.026 of the Revised Code shall be paid by the purchase of stamps. A

stamp shall be affixed to each package of an aggregate denomination not less than the amount of the tax upon the contents thereof. The stamp, so affixed, shall be *prima-facie* evidence of payment of the tax. Except as is provided in the rules prescribed by the tax commissioner under authority of sections 5743.01 to 5743.20 of the Revised Code, and unless such stamps have been previously affixed, they shall be so affixed by each wholesale dealer, and canceled by writing or stamping across the face thereof the number assigned to such wholesale dealer by the tax commissioner for that purpose, prior to the delivery of any cigarettes to any person in this state, or in the case of a tax levied pursuant to section 5743.024 or 5743.026 of the Revised Code, prior to the delivery of cigarettes to any person in the county in which the tax is levied.

Except as provided in the rules prescribed by the commissioner under authority of sections 5743.01 to 5743.20 of the Revised Code, and unless such stamps have been previously affixed, each retail dealer shall within twenty-four hours after the receipt of any cigarettes at the retail dealer's place of business and prior to the delivery thereof to any person in this state, or in the case of a tax levied pursuant to section 5743.024 or 5743.026 of the Revised Code prior to the delivery thereof to any person in the county in which the tax is levied, so affix such stamps and cancel same by writing or stamping across the face thereof the number assigned to such retail dealer by the commissioner for that purpose.

Whenever any cigarettes are found in the place of business of any retail dealer without proper tax stamps affixed thereto and canceled, it is presumed that such cigarettes are kept therein in violation of sections 5743.01 to 5743.20 of the Revised Code.

Each wholesale dealer and each retail dealer who purchases cigarettes without proper tax stamps affixed thereto shall, on or before the thirty-first day of the month following the close of each semiannual period, which period shall end on the thirtieth day of June and the thirty-first day of December of each year, make and file a return of the preceding semiannual period, on such form as is prescribed by the tax commissioner, showing the dealer's entire purchases and sales of cigarettes and stamps or impressions for such semiannual period and accurate inventories as of the beginning and end of each semiannual period of cigarettes, stamped or unstamped; cigarette tax stamps affixed or unaffixed and unused meter impressions; and such other information as the commissioner finds necessary to the proper administration of sections 5743.01 to 5743.20 of the Revised Code. The commissioner may extend the time for making and filing returns and may remit all or any part of amounts of penalties which may become due under

sections 5743.01 to 5743.20 of the Revised Code. The wholesale or retail dealer shall deliver the return together with a remittance of the tax deficiency reported thereon to the treasurer of state. The treasurer of state shall stamp or otherwise mark on the return the date it was received and shall also show thereon by stamp or otherwise a payment or nonpayment of the deficiency shown by the return. Thereafter, the treasurer of state shall immediately transmit all returns filed under this section to the commissioner. Any wholesale or retail dealer who fails to file a return under this section and the rules of the commissioner may be required, for each day the dealer so fails, to forfeit and pay into the state treasury the sum of one dollar as revenue arising from the tax imposed by sections 5743.01 to 5743.20 of the Revised Code and such sum may be collected by assessment in the manner provided in section 5743.081 of the Revised Code. If the commissioner finds it necessary in order to insure the payment of the tax imposed by sections 5743.01 to 5743.20 of the Revised Code, the commissioner may require returns and payments to be made other than semiannually. The returns shall be signed by the wholesale or retail dealer or an authorized agent thereof.

Sec. 5743.04. The tax commissioner shall design and procure the stamps provided for in section 5743.03 of the Revised Code and shall enforce and administer sections 5743.01 to 5743.44 of the Revised Code. With respect to packages containing any number of cigarettes other than twenty, if the commissioner finds that it is practicable to collect the taxes levied under sections 5743.02, 5743.023, 5743.024, and 5743.026 of the Revised Code by any method other than that provided in this section and section 5743.03 of the Revised Code, ~~he~~ the commissioner may by rule prescribe such other method for payment of the taxes upon such packages of cigarettes as will adequately protect the revenue; provided, that in any case where the commissioner prescribes that the taxes upon such packages of cigarettes shall be paid on the basis of returns filed by a wholesale or retail dealer, said returns, together with a remittance of all taxes due as shown thereon, shall be filed with the treasurer of state not later than the tenth day of the month following the month in which such cigarettes are sold in this state. The commissioner may promulgate rules in accordance with sections 119.01 to 119.13 of the Revised Code as ~~he~~ the commissioner deems necessary to carry out sections 5743.01 to 5743.44 of the Revised Code and may adopt different detailed rules applicable to diverse methods and conditions of sale of cigarettes, prescribing, in each class of cases, upon whom, as between the wholesale dealer and the retail dealer, the primary duty of affixing stamps shall rest, and the manner in which stamps shall be affixed. A copy of such

rules shall be furnished to every licensed dealer as provided in sections 119.01 to 119.13 of the Revised Code. Any such rule so furnished which excuses a wholesale dealer from affixing stamps under the circumstances of the particular case shall be a defense in the prosecution of such dealer for violation of section 5743.03 of the Revised Code.

The commissioner, ~~if he determines after determining~~ that it is practicable to evidence payment of the taxes levied under sections 5743.02, ~~5743.023~~, 5743.024, and 5743.026 of the Revised Code by impression made by a metering device, shall by resolution provide that such metering device may be used in lieu of the stamps otherwise provided for in section 5743.03 of the Revised Code. The commissioner may authorize any wholesale or retail dealer to use the metering device approved by ~~him~~ the commissioner. Such device before being used shall be sealed by the treasurer of state, and shall be used only in accordance with the rules prescribed by the commissioner.

Wholesale and retail dealers authorized to use said device shall prepay the tax represented by meter impressions and shall deliver the metering device to the treasurer of state or county treasurer in the county in which the place of business of any wholesaler or retailer is located if such treasurer is designated by the treasurer of state, who shall seal the meter in accordance with the prepayments so made.

Sec. 5743.08. Whenever the tax commissioner discovers any cigarettes, subject to the taxes levied under section 5743.02, ~~5743.023~~, 5743.024, or 5743.026 of the Revised Code, and upon which the taxes have not been paid, the commissioner may seize and take possession of such cigarettes, which shall thereupon be forfeited to the state, and the commissioner may within a reasonable time thereafter sell the forfeited cigarettes. From the proceeds of the sale, the tax commissioner shall pay the costs incurred in such proceedings, and any proceeds remaining after the costs are paid shall be considered as revenue arising from the tax; provided that the seizure and sale shall not be deemed to relieve any person from the fine or imprisonment provided for violation of sections 5743.01 to 5743.20 of the Revised Code. The sale shall be made where it is most convenient and economical. The tax commissioner may order the destruction of the forfeited cigarettes if the quantity or quality of the cigarettes is not sufficient to warrant their sale.

Sec. 5743.081. (A) If any wholesale dealer or retail dealer fails to pay the tax levied under ~~seetions~~ section 5743.02, ~~5743.023~~, 5743.024, or 5743.026 of the Revised Code as required by sections 5743.01 to 5743.20 of the Revised Code, and by the rules of the tax commissioner, or fails to collect the tax from the purchaser or consumer, the commissioner may make

an assessment against the wholesale or retail dealer based upon any information in the commissioner's possession.

The commissioner may make an assessment against any wholesale or retail dealer who fails to file a return required by section 5743.03 or 5743.025 of the Revised Code.

No assessment shall be made against any wholesale or retail dealer for any taxes imposed under sections section 5743.02, ~~5743.023~~, 5743.024, or 5743.026 of the Revised Code more than three years after the last day of the calendar month which immediately follows the semiannual period prescribed in section 5743.03 of the Revised Code in which the sale was made, or more than three years after the semiannual return for such period is filed, whichever is later. This section does not bar an assessment against any wholesale or retail dealer who fails to file a return as required by section 5743.03 or 5743.025 of the Revised Code, or who files a fraudulent return.

A penalty of up to thirty per cent may be added to the amount of every assessment made under this section. The commissioner may adopt rules providing for the imposition and remission of penalties added to assessments made under this section.

The commissioner shall give the party assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. The notice shall specify separately any portion of the assessment that represents a county tax.

(B) Unless the party to whom the notice of assessment is directed files with the commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a petition for reassessment in writing, signed by the party assessed, or by the party's authorized agent having knowledge of the facts, the assessment shall become final and the amount of the assessment shall be due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received prior to the date shown on the final determination by the commissioner.

Unless the petitioner waives a hearing, the commissioner shall assign a time and place for the hearing on the petition and notify the petitioner of the time and place of the hearing by personal service or certified mail, but the commissioner may continue the hearing from time to time if necessary.

The commissioner may make such correction to an assessment as the commissioner finds proper. The commissioner shall serve a copy of the final determination on the petitioner by personal service or certified mail, and the commissioner's decision in the matter shall be final, subject to appeal as provided in section 5717.02 of the Revised Code. Only objections decided

on the merits by the board of tax appeals or a court shall be given collateral estoppel or res judicata effect in considering an application for refund of amounts paid pursuant to the assessment.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the wholesale or retail dealer's place of business is located or the county in which the party assessed resides. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

The clerk, immediately upon the filing of the commissioner's entry, shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state cigarette sales tax," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment except as otherwise provided in sections 5743.01 to 5743.20 of the Revised Code.

The portion of the assessment not paid within sixty days after the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until it is paid. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected by the commissioner under this section shall be paid to the treasurer of state, and when paid shall be considered as revenue arising from the taxes imposed by sections 5743.01 to 5743.20 of the Revised Code.

Sec. 5743.12. No person shall make a false entry upon an invoice, package, or container of cigarettes upon which an entry is required by sections 5743.01 to 5743.20 of the Revised Code, nor shall any person present any such false entry for the inspection of the tax commissioner with intent to evade the tax levied under section 5743.02, ~~5743.023~~, 5743.024, or 5743.026 of the Revised Code.

Sec. 5743.13. No person shall falsely or fraudulently make, forge, alter, or counterfeit any stamp prescribed by the tax commissioner under section 5743.03 of the Revised Code, or cause to be falsely or fraudulently made, forged, altered, or counterfeited any such stamp, or possess any

counterfeiting device, or knowingly and willfully utter, publish, pass, or tender as true, any such false, altered, forged, or counterfeited stamp, or use more than once any such stamp for the purpose of evading the tax levied under section 5743.02, ~~5743.023~~, 5743.024, or 5743.026 of the Revised Code.

Sec. 5743.14. (A) The tax commissioner may inspect any place where cigarettes subject to the tax levied under section 5743.02, ~~5743.023~~, 5743.024, or 5743.026 of the Revised Code are sold or stored.

(B) No person shall prevent or hinder the tax commissioner from making a full inspection of any place where cigarettes subject to the tax levied under section 5743.02, ~~5743.023~~, 5743.024, or 5743.026 of the Revised Code are sold or stored, or prevent or hinder the full inspection of invoices, books, records, or papers required to be kept by sections 5743.01 to 5743.20 of the Revised Code.

Sec. 5743.32. To provide revenue for the general revenue fund of the state, an excise tax is hereby levied on the use, consumption, or storage for consumption of cigarettes by consumers in this state at the rate of ~~eleven~~ twenty-seven and one-half mills on each cigarette. The tax shall not apply if the tax levied by section 5743.02 of the Revised Code has been paid.

The money received into the state treasury from the excise tax levied by this section shall be credited to the general revenue fund.

Sec. 5743.33. Every person who has acquired cigarettes for use, storage, or other consumption subject to the tax levied under section 5743.32, ~~5743.322~~, 5743.323, or 5743.324 of the Revised Code, shall, on or before the fifteenth day of the month following receipt of such cigarettes, file with the tax commissioner a return showing the amount of cigarettes acquired, together with remittance of the tax thereon. No such person shall transport within this state, cigarettes that have a wholesale value in excess of sixty dollars, unless ~~he~~ that person has obtained consent to transport the cigarettes from the department of taxation prior to such transportation. Such consent shall not be required if the applicable taxes levied under sections 5743.02, ~~5743.023~~, 5743.024, and 5743.026 of the Revised Code have been paid. Application for the consent shall be in the form prescribed by the tax commissioner.

Every person transporting such cigarettes shall possess the consent while transporting or possessing the cigarettes within this state and shall produce the consent upon request of any law enforcement officer or authorized agent of the tax commissioner.

Any person transporting such cigarettes without the consent required by this section, shall be subject to the provisions of this chapter, including the

applicable taxes imposed by sections 5743.02, ~~5743.023~~, 5743.024, and 5743.026 of the Revised Code.

Sec. 5743.34. If any person required to pay the tax levied under section 5743.32, ~~5743.322~~, 5743.323, or 5743.324 of the Revised Code, fails to make remittance, the tax commissioner may issue an assessment against that person based on any information in the commissioner's possession.

Sections 5743.081 and 5743.082 of the Revised Code relating to the assessments or findings, appeals from assessments or findings, the effect of assessments or findings before or after hearing and before or after filing the same in the office of the clerk of the court of common pleas, and all sections relating to the procedure, authority, duties, liabilities, powers, and privileges of the person assessed, the commissioner, the clerk, and all other public officials, shall be applicable to assessments made pursuant to this section.

Sec. 5743.35. No person required by section 5743.33 of the Revised Code to file a return with the tax commissioner shall fail to make such return, or fail to pay the applicable taxes levied under section 5743.32, ~~5743.322~~, 5743.323, or 5743.324 of the Revised Code, or fail to pay any lawful assessment issued by the commissioner.

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter has the same meaning as when used in a comparable context in the Internal Revenue Code, and all other statutes of the United States relating to federal income taxes.

As used in this chapter:

(A) "Adjusted gross income" or "Ohio adjusted gross income" means adjusted gross income as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States that are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) ~~Add, in~~ In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002 or after 2004, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002, 2003, or 2004. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent included in federal adjusted gross income.

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition credits purchased pursuant to Chapter 3334. of the Revised Code.

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the

taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702(B)(b) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the

taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal

adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(20)(a) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest. The tax commissioner, under procedures established by the commissioner, may waive the add-back related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be sitused to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one-fifth of the amount so added for each of the five succeeding taxable years.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be sitused to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or

more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(B) "Business income" means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code and any election under section 5747.25 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) Division (I)(3) of this section applies only to taxable years of a trust beginning in 2002, 2003, or 2004.

A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part. For the purposes of division (I)(3) of this section, a trust resides in this state to the extent that it consists, directly or indirectly, in whole or in part, of the net current value, adjusted for any profits, gains, or losses, of assets or liabilities that were transferred to the trust by any of the following:

(a) The will of a decedent who was domiciled in this state at the time of the decedent's death;

(b) A person who is domiciled in this state if the trust or part of the trust is not irrevocable;

(c) A person who was domiciled in this state when the trust or part of the trust became irrevocable, but only if, for all or some portion of the current taxable year of the trust, at least one beneficiary of the trust is a resident for the purposes of this chapter.

For the purpose of divisions (I)(3)(b) and (c) of this section, the transfer of net assets to a trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code.

The tax commissioner may adopt rules to ascertain the part of a trust residing in this state under this division.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" applies only to estates only and trusts, and means taxable income as defined and used in the Internal Revenue Code adjusted as follows:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities;

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States that are exempt from federal income taxes but not from state income taxes;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States that are exempt from state taxes under the laws of the United States;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect;

(6) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent included in federal taxable income;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining either federal adjusted gross income or federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of

this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(12) Deduct any amount that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002, 2003, or 2004.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

ing in 2002, 2003, or 2004.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of proprietary school registration under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an

mployer, scholarship, grant in aid, or other educational benefit program.

(BB)(1) "Modified business income" means the business income included in a trust's taxable income after such taxable income is first reduced by the qualifying amount, if any.

(2) "Qualifying amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interest in, or debt obligations of, a qualifying investee to the extent included in the trust's taxable income, but only if the location of the physical assets of the qualifying investee is available to the trust.

(3) "Modified nonbusiness income" means a trust's taxable income other than modified business income and other than the qualifying amount.

(4) "Modified taxable income" applies only to trusts and means the sum of the following:

(a) Modified business income multiplied by the fraction calculated under division (B)(2) of section 5733.05, and applying section 5733.057 of the Revised Code, as if the trust were a corporation subject to the tax imposed by section 5733.06 of the Revised Code;

(b) The qualifying amount multiplied by the ratio of the book value of the physical assets in this state of the qualifying investee to the book value of the total physical assets everywhere of the qualifying investee. If, for a taxable year, the trust recognizes a qualifying amount with respect to more than one qualifying investee, the amount described in division (BB)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c) Modified nonbusiness income to the extent produced by assets held by a trust or portion of a trust that is a resident for the purposes of this chapter.

If the allocation and apportionment of a trust's income under divisions (BB)(4)(a) and (c) of this section do not fairly represent the modified taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

(5) "Qualifying investee" means a person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust.

(CC) Any term used in this chapter that is not otherwise defined in this section and that is not used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes has the same meaning as in section 5733.40 of the Revised Code.

Sec. 5747.02. (A) For the purpose of providing revenue for the support

of schools and local government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and every estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured in the case of individuals by adjusted gross income less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code; measured in the case of trusts by modified taxable income under division (D) of this section; and measured in the case of estates by taxable income. The tax imposed by this section on the balance thus obtained is hereby levied as follows:

| ADJUSTED GROSS INCOME<br>LESS EXEMPTIONS<br>(INDIVIDUALS) | OR<br><u>MODIFIED</u><br><u>TAXABLE INCOME (TRUSTS)</u> | OR | TAXABLE INCOME<br>(ESTATES) | TAX  |
|---|---|----|-----------------------------|--|
| \$5,000 or less   |   |    |                             | .743%  |
| More than \$5,000 but not more than \$10,000              |   |    |                             | \$37.15 plus 1.486% of the amount in excess of \$5,000     |
| More than \$10,000 but not more than \$15,000             |   |    |                             | \$111.45 plus 2.972% of the amount in excess of \$10,000   |
| More than \$15,000 but not more than \$20,000             |   |    |                             | \$260.05 plus 3.715% of the amount in excess of \$15,000   |
| More than \$20,000 but not more than \$40,000             |   |    |                             | \$445.80 plus 4.457% of the amount in excess of \$20,000   |
| More than \$40,000 but not more than \$80,000             |   |    |                             | \$1,337.20 plus 5.201% of the amount in excess of \$40,000 |
| More than \$80,000 but not more than \$100,000            |   |    |                             | \$3,417.60 plus 5.943% of the amount in excess of \$80,000 |
| More than \$100,000 but not more than \$200,000           |   |    |                             | \$4,606.20 plus 6.9% of the amount in excess of \$100,000  |
| More than \$200,000                                       |   |    |                             | \$11,506.20 plus 7.5% of the                               |

amount in excess of \$200,000

In July of each year, beginning in 2005, the tax commissioner shall adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment of the income amounts. The rates of taxation shall not be adjusted.

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made. The tax commissioner shall not make such adjustments in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year.

(B) If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under division (A) of this section shall be reduced by the percentage prescribed in that certification for taxable years beginning in the calendar year in which that certification is made.

(C) The levy of this tax on income does not prevent a municipal corporation, a joint economic development zone created under section 715.691, or a joint economic development district created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code from levying a tax on income.

(D) Division (D) of this section applies only to taxable years of a trust beginning in 2002, 2003, or 2004.

The tax imposed by this section on a trust shall be computed by multiplying the modified taxable income of the trust by the rates prescribed by division (A) of this section.

A credit is allowed against the tax computed under division (D) of this section equal to the lesser of (1) the tax paid to another state or the District of Columbia on modified nonbusiness income of a trust, or (2) the effective tax rate, based on modified taxable income, multiplied by the modified nonbusiness income of the trust. The credit applies before any other applicable credits. The credits enumerated in divisions (A)(1) to (13) of section 5747.98 of the Revised Code do not apply to a trust subject to this division.

(E) For the purposes of this section, "trust" means any trust described in Subchapter J of the Internal Revenue Code, excluding a trust exempted from taxation under section 501(c)(3) of Internal Revenue Code.

Sec. 5747.05. As used in this section, "income tax" includes both a tax on net income and a tax measured by net income.

The following credits shall be allowed against the income tax imposed by section 5747.02 of the Revised Code on individuals and estates:

(A)(1) The amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the adjusted gross income of any nonresident taxpayer that is not allocable to this state pursuant to sections 5747.20 to 5747.23 of the Revised Code;

(2) The credit provided under this division shall not exceed the portion of the total tax due under section 5747.02 of the Revised Code that the amount of the nonresident taxpayer's adjusted gross income not allocated to this state pursuant to sections 5747.20 to 5747.23 of the Revised Code bears to the total adjusted gross income of the nonresident taxpayer derived from all sources everywhere.

(3) The tax commissioner may enter into an agreement with the taxing authorities of any state or of the District of Columbia that imposes an income tax to provide that compensation paid in this state to a nonresident taxpayer shall not be subject to the tax levied in section 5747.02 of the Revised Code so long as compensation paid in such other state or in the District of Columbia to a resident taxpayer shall likewise not be subject to the income tax of such other state or of the District of Columbia.

(B) The lesser of division (B)(1) or (2) of this section:

(1) The amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the adjusted gross income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(1) of this section shall not exceed the portion of the total tax due under section 5747.02 of the Revised Code that the amount of the resident taxpayer's adjusted gross income subjected to an income tax in the other state or in the District of Columbia bears to the total adjusted gross income of the resident taxpayer derived from all sources everywhere.

(2) The amount of income tax liability to another state or the District of Columbia on the portion of the adjusted gross income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(2) of this section shall not exceed the amount of tax otherwise due under section 5747.02 of the Revised Code.

(3) If the credit provided under division (B) of this section is affected by a change in either the portion of adjusted gross income of a resident taxpayer subjected to an income tax in another state or the District of Columbia or the amount of income tax liability that has been paid to another state or the District of Columbia, the taxpayer shall report the change to the tax commissioner within sixty days of the change in such form as the commissioner requires.

(a) In the case of an underpayment, the report shall be accompanied by payment of any additional tax due as a result of the reduction in credit together with interest on the additional tax and is a return subject to assessment under section 5747.13 of the Revised Code solely for the purpose of assessing any additional tax due under this division, together with any applicable penalty and interest. It shall not reopen the computation of the taxpayer's tax liability under this chapter from a previously filed return no longer subject to assessment except to the extent that such liability is affected by an adjustment to the credit allowed by division (B) of this section.

(b) In the case of an overpayment, an application for refund may be filed under this division within the sixty day period prescribed for filing the report even if it is beyond the period prescribed in section 5747.11 of the Revised Code if it otherwise conforms to the requirements of such section. An application filed under this division shall only claim refund of overpayments resulting from an adjustment to the credit allowed by division (B) of this section unless it is also filed within the time prescribed in section 5747.11 of the Revised Code. It shall not reopen the computation of the taxpayer's tax liability except to the extent that such liability is affected by an adjustment to the credit allowed by division (B) of this section.

(C) For a taxpayer sixty-five years of age or older during the taxable year, a credit for such year equal to fifty dollars for each return required to be filed under section 5747.08 of the Revised Code.

(D) A taxpayer sixty-five years of age or older during the taxable year who has received a lump-sum distribution from a pension, retirement, or profit-sharing plan in the taxable year may elect to receive a credit under this division in lieu of the credit to which ~~he~~ the taxpayer is entitled under division (C) of this section. A taxpayer making such election shall receive a credit for the taxable year equal to fifty dollars times the taxpayer's expected remaining life as shown by annuity tables issued under the provisions of the Internal Revenue Code and in effect for the calendar year which includes the last day of the taxable year. A taxpayer making an election under this division is not entitled to the credit authorized under division (C) of this

section in subsequent taxable years except that if such election was made prior to July 1, 1983, the taxpayer is entitled to one-half the credit authorized under such division in subsequent taxable years but may not make another election under this division.

(E) A taxpayer who is not sixty-five years of age or older during the taxable year who has received a lump-sum distribution from a pension, retirement, or profit-sharing plan in a taxable year ending on or before July 31, 1991, may elect to take a credit against the tax otherwise due under this chapter for such year equal to fifty dollars times the expected remaining life of a taxpayer sixty-five years of age as shown by annuity tables issued under the provisions of the Internal Revenue Code and in effect for the calendar year which includes the last day of the taxable year. A taxpayer making an election under this division is not entitled to a credit under division (C) or (D) of this section in any subsequent year except that if such election was made prior to July 1, 1983, the taxpayer is entitled to one-half the credit authorized under division (C) of this section in subsequent years but may not make another election under this division. No taxpayer may make an election under this division for a taxable year ending on or after August 1, 1991.

(F) A taxpayer making an election under either division (D) or (E) of this section may make only one such election in the taxpayer's lifetime.

(G)(1) On a joint return filed by a husband and wife, each of whom had adjusted gross income of at least five hundred dollars, exclusive of interest, dividends and distributions, royalties, rent, and capital gains, a credit equal to the percentage shown in the table contained in this division of the amount of tax due after allowing for any other credit that precedes the credit under this division in the order required under section 5747.98 of the Revised Code.

(2) The credit to which a taxpayer is entitled under this division in any taxable year is the percentage shown in column B that corresponds with the taxpayer's adjusted gross income, less exemptions for the taxable year:

A.

IF THE ADJUSTED GROSS INCOME, THE CREDIT FOR THE  
LESS EXEMPTIONS, FOR THE TAX TAXABLE YEAR IS:

YEAR IS:

|  |     |
|--|-----|
| \$25,000 or less                                 | 20% |
| More than \$25,000 but not more<br>than \$50,000 | 15% |
| More than \$50,000 but not more<br>than \$75,000 | 10% |

More than \$75,000 5%

(3) The credit allowed under this division shall not exceed six hundred fifty dollars in any taxable year.

(H) No claim for credit under this section shall be allowed unless the claimant furnishes such supporting information as the tax commissioner prescribes by rules. Each credit under this section shall be claimed in the order required under section 5747.98 of the Revised Code.

(I) An individual who is a resident for part of a taxable year and a nonresident for the remainder of the taxable year is allowed the credits under divisions (A) and (B) of this section in accordance with rules prescribed by the tax commissioner. In no event shall the same income be subject to both credits.

(J) The credit allowed under division (A) of this section shall be calculated based upon the amount of tax due under section 5747.02 of the Revised Code after subtracting any other credits that precede the credit under that division in the order required under section 5747.98 of the Revised Code. The credit allowed under division (B) of this section shall be calculated based upon the amount of tax due under section 5747.02 of the Revised Code after subtracting any other credits that precede the credit under that division in the order required under section 5747.98 of the Revised Code.

(K) No credit shall be allowed under division (B) of this section unless the taxpayer furnishes such proof as the tax commissioner shall require that the income tax liability has been paid to another state or the District of Columbia.

(L) No credit shall be allowed under division (B) of this section for compensation that is not subject to the income tax of another state or the District of Columbia as the result of an agreement entered into by the tax commissioner under division (A)(3) of this section.

Sec. 5747.21. (A) This section applies solely for the purposes of computing the credit allowed under division (A) of section 5747.05 of the Revised Code, computing income taxable in this state under division (D) of section 5747.08 of the Revised Code, and computing the credit allowed under section 5747.057 of the Revised Code. Except

(B) Except as otherwise provided under ~~section~~ sections 5747.211 and 5747.212 of the Revised Code, all items of business income and business deduction shall be apportioned to this state by multiplying the adjusted gross income by the fraction calculated under division (B)(2) of section 5733.05 and section 5733.057 of the Revised Code as if the taxpayer's business were a corporation subject to the tax imposed by section 5733.06 of the Revised

Code.

(C) If the allocation and apportionment provisions of sections 5747.20 to 5747.23 of the Revised Code or of any rule adopted by the tax commissioner, do not fairly represent the extent of business activity in this state of a taxpayer or pass-through entity, the taxpayer or pass-through entity may request, which request must be in writing accompanying the return or amended return, or the tax commissioner may require, in respect of all or any part of the business activity, if reasonable, any one or more of the following:

- (1) Separate accounting;
- (2) The exclusion of one or more factors;
- (3) The inclusion of one or more additional factors which will fairly represent the business activity in this state;
- (4) The employment of any other method to effectuate an equitable allocation of such business in this state. An alternative method will be effective only with approval of the tax commissioner.

The tax commissioner may adopt rules in the manner provided by sections 5703.14 and 5747.18 of the Revised Code providing for alternative methods of calculating business income and nonbusiness income applicable to all taxpayers and pass-through entities, to classes of taxpayers and pass-through entities, or only to taxpayers and pass-through entities within a certain industry.

Sec. 5747.212. This section applies solely for the purpose of computing the credit allowed under division (A) of section 5747.05 of the Revised Code, computing income taxable in this state under division (D) of section 5747.08 of the Revised Code, and computing the credit allowed under section 5747.057 of the Revised Code.

A pass-through entity investor that owns, directly or indirectly, at least twenty per cent of the pass-through entity at any time during the current taxable year or either of the two preceding taxable years shall apportion any income, including gain or loss, realized from the sale, exchange, or other disposition of a debt or equity interest in the entity as prescribed in this section. For such purposes, in lieu of using the method prescribed by sections 5747.20 and 5747.21 of the Revised Code, the investor shall apportion the income using the average of the pass-through entity's apportionment fractions otherwise applicable under section 5747.21 of the Revised Code for the current and two preceding taxable years. If the pass-through entity was not in business for one or more of those years, each year that the entity was not in business shall be excluded in determining the average.

Sec. 5901.02. In each county there shall be a commission known as "the veterans service commission." Except as provided in section 5901.021 of the Revised Code, the commission shall be composed of five persons. Those persons shall be residents of the county and shall be appointed to five-year terms by a judge of the court of common pleas. At the time of appointment or reappointment to the commission, no commission member appointed under this section shall be an employee of the commission or hold an elective or other appointive office of the county served by the commission.

Each member of the commission appointed under this section shall be an honorably discharged or honorably separated veteran. Within sixty days after the date of appointment, each such member of the commission shall file the member's form DD214 with the governor's office of veterans affairs in accordance with guidelines established by the director of that office. Appointments to the commission Such appointments shall be made from lists of recommended persons, in the manner specified in the following paragraph. One person shall be a representative recommended by the American Legion; one person shall be a representative recommended by the Veterans of Foreign Wars; one person shall be a representative recommended by the Disabled American Veterans; one person shall be a representative recommended by the AMVETS; and one person shall be a representative recommended by the Military Order of the Purple Heart of the U.S.A., the Vietnam Veterans of America, or the Korean War Veterans Association. If any such organization has no post or chapter located in the county, the appointment shall be made from lists of recommended persons submitted by posts or chapters of any other congressionally chartered veterans organizations located in the county. If no such other organizations have posts or chapters located in the county, the judge described in the following paragraph responsible for making appointments under this section may appoint any qualified veteran to represent the veteran community.

On or before the fifteenth day of October of each year, the appointing judge of the court of common pleas who is responsible for making appointments to the commission shall notify each post or chapter of each organization within the county from which the member may or must be appointed that it may submit a list containing three recommendations of persons who are eligible for appointment. If the judge does not receive any recommendations within sixty days after providing the required notification, the judge may appoint any qualified veteran to represent the veteran community. The judge shall make the appointment on or before the fifteenth day of January of each year. Vacancies occurring on the commission Any vacancy in a membership appointed under this section shall be filled in the

same manner as the original appointments.

Beginning in the year 2000, appointments appointment of members to the commission under this section shall be made as follows:

(A) Appointments for members to represent the American Legion shall be made for terms to commence in years ending in zero and five.

(B) Appointments for members to represent the Veterans of Foreign Wars shall be made for terms to commence in years ending in one and six.

(C) Appointments for members to represent the Disabled American Veterans shall be made for terms to commence in years ending in two and seven.

(D) Appointments for members to represent the AMVETS shall be made for terms to commence in years ending in three and eight.

(E) Appointments for members to represent the Military Order of the Purple Heart of the U.S.A., the Vietnam Veterans of America, or the Korean War Veterans Association shall be made for terms to commence in years ending in four and nine.

The terms immediately preceding the initial appointments made under divisions (A) to (E) of this section may be for periods of less than five years.

Sec. 5901.021. This section applies only to counties having a population, according to the most recent decennial census, of more than four hundred thousand. In any such county in which the veterans service commission submits a budget request under section 5901.11 of the Revised Code for the ensuing fiscal year that exceeds (1) twenty-five-thousandths of one per cent of the assessed value of property in the county or (2) the amount appropriated to the commission from the county general fund in the current fiscal year by more than ten per cent of that appropriation, the board of county commissioners, by resolution, may create not more than six memberships on the veterans service commission in addition to the memberships provided for by section 5901.02 of the Revised Code. The board shall prescribe the number of years such memberships shall exist, which shall not exceed five years. Once a board of county commissioners creates such memberships, it may not create additional memberships under this section if the total number of such memberships would exceed six. The board shall appoint residents of the county to each of the additional memberships for terms prescribed by the board and commencing on a date fixed by the board.

If the board of county commissioners appoints such additional members, the board may permit the commission to submit an original or revised budget request for the ensuing fiscal year later than the last Monday in May, as otherwise required under section 5901.11 of the Revised Code.

The board of county commissioners may remove, for cause, any member appointed under this section; shall provide for whether such members may be reappointed upon the expiration of their terms; and shall fill any vacancy in a membership appointed under this section for the unexpired term in the manner provided for the original appointment.

Sec. 5901.03. The veterans service commission shall select one of its members as president, one as vice-president, and one as secretary. The commission shall meet at least once each month. A judge of the court of common pleas may remove, for cause, any member of the commission ~~for cause appointed under section 5901.02 of the Revised Code, and shall fill vacancies occurring on the commission occurring among memberships appointed under that section for the unexpired terms; in the manner provided in section 5901.02 of the Revised Code for the original appointments.~~

The commission's duties shall include but are not limited to the following:

- (A) Employing such staff as are necessary to carry out the commission's duties, and fixing their compensation;
- (B) Establishing policies and procedures for the administration of the commission and the veterans service office;
- (C) Establishing policies and procedures for the administration of assistance as provided under this chapter;
- (D) Causing the budgets of the veterans service commission and veterans service office to be presented to the board of county commissioners for approval;
- (E) Establishing programs of outreach and coordination with other agencies to enhance available services to veterans within the county;
- (F) Promoting, monitoring, and providing funding for ongoing education and training for veterans service commissioners and staff;
- (G) Making reports to the organizations represented on the commission, as provided in section 5901.02 of the Revised Code, and to others, upon request;
- (H) Establishing regularly scheduled transportation for veterans to and from veterans administration medical centers whose districts the county is within, through contractual agreements or through other arrangements determined by the commission to be most cost-effective;
- (I) Participating in appropriate memorial and commemorative activities to help promote patriotism and veterans services;
- (J) Taking any other actions required by this chapter.

Sec. 5919.34. (A) As used in this section:

- (1) "Academic term" means any one of the following:

(a) Fall term, which consists of fall semester or fall quarter, as appropriate;

(b) Winter term, which consists of winter semester, winter quarter, or spring semester, as appropriate;

(c) Spring term, which consists of spring quarter;

(d) Summer term, which consists of summer semester or summer quarter, as appropriate.

(2) "Eligible applicant" means any individual to whom all of the following apply:

(a) The individual does not possess a baccalaureate degree.

(b) The individual has enlisted, re-enlisted, or extended current enlistment in the Ohio national guard or is an individual to which division (F) of this section applies.

(c) The individual is actively enrolled as a full-time or part-time student for at least six credit hours of course work in a semester or quarter in a two-year or four-year degree-granting program at an institution of higher education or in a diploma-granting program at an institution of higher education that is a school of nursing.

(d) The individual has not accumulated ninety-six eligibility units under division (E) of this section.

(3) "Institution of higher education" means an Ohio institution of higher education that is state-assisted, that is nonprofit and has received a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, that is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, or that holds a certificate of registration and program authorization issued by the state board of proprietary school registration pursuant to section 3332.05 of the Revised Code.

(4) "State university" has the same meaning as in section 3345.011 of the Revised Code.

(B)(1) There is hereby created a scholarship program to be known as the Ohio national guard scholarship program. For the fiscal year 2000, the number of participants in the program for the fall term is limited to the equivalent of two thousand five hundred full-time participants; the number of participants in the program for the winter term is limited to the equivalent of two thousand five hundred full-time participants; the number of participants in the program for the spring term is limited to the equivalent of one thousand six hundred seventy-five full-time participants; and the number of participants in the program for the summer term is limited to the equivalent of six hundred full-time participants. Except as provided in

division (B)(2) of this section for the fiscal year 2001 and succeeding fiscal years, the number of participants in the program for the fall term is limited to the equivalent of three thousand five hundred full-time participants; the number of participants in the program for the winter term is limited to the equivalent of three thousand five hundred full-time participants; the number of participants in the program for the spring term is limited to the equivalent of two thousand three hundred forty-five full-time participants; and the number of participants in the program for the summer term is limited to the equivalent of eight hundred full-time participants.

(2) After the application deadline for any academic term in fiscal year 2001, the adjutant general may request the controlling board, if sufficient appropriated funds are available, to approve the following number of additional participants for that term:

- (a) For the fall or winter academic term, up to the equivalent of five hundred additional full-time participants;
- (b) For the spring academic term, up to the equivalent of three hundred seventy-five additional full-time participants;
- (c) For the summer academic term, up to the equivalent of one hundred twenty-five additional full-time participants.

(C) If the adjutant general estimates that appropriations for all scholarships applied for under this section and likely to be used during an academic term are inadequate for all eligible applicants for that academic term to receive scholarships, the adjutant general shall promptly inform all applicants not receiving scholarships for that academic term of the next academic term that appropriations will be adequate for the scholarships. Any such eligible applicant may again apply for a scholarship beginning that academic term if the applicant is in compliance with all requirements established by this section and the adjutant general for the program. The adjutant general shall process all applications for scholarships for each academic term in the order in which they are received. The scholarships shall be made without regard to financial need. At no time shall one person be placed in priority over another because of sex, race, or religion.

(D)(1) Except as provided in division ~~(H)(1)~~ of this section, for each academic term that an eligible applicant is approved for a scholarship under this section and either remains a current member in good standing of the Ohio national guard or is eligible for a scholarship under division (F)(1) of this section, the institution of higher education in which the applicant is enrolled shall, if the applicant's enlistment obligation extends beyond the end of that academic term or if division (F)(1) of this section applies, be paid on the applicant's behalf the applicable one of the following amounts:

(1)(a) If the institution is state-assisted, an amount equal to one hundred per cent of the institution's tuition charges;

(2)(b) If the institution is a nonprofit private institution or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, an amount equal to one hundred per cent of the average tuition charges of all state universities;

(3)(c) If the institution is an institution that holds a certificate of registration from the state board of proprietary school registration, the lesser of the following:

(a)(i) An amount equal to one hundred per cent of the total instructional and general charges of the institution;

(b)(ii) An amount equal to one hundred per cent of the average tuition charges of all state universities.

(4)(2) An eligible applicant's scholarship shall not be reduced by the amount of that applicant's benefits under "the Montgomery G.I. Bill Act of 1984," Pub. L. No. 98-525, 98 Stat. 2553 (1984).

(E) A scholarship recipient under this section shall be entitled to receive scholarships under this section for the number of quarters or semesters it takes the recipient to accumulate ninety-six eligibility units as determined under divisions (E)(1) to (3) of this section.

(1) To determine the maximum number of semesters or quarters for which a recipient is entitled to a scholarship under this section, the adjutant general shall convert a recipient's credit hours of enrollment for each academic term into eligibility units in accordance with the following table:

| Number of credit hours of enrollment in an academic term | equals | The following                             | The following                            |
|--|--------|---|--|
| 12 or more hours   |        | number of eligibility units if a semester | number of eligibility units if a quarter |
| 9 but less than 12                                       |        | 12 units                                  | 8 units                                  |
| 6 but less than 9  |        | 9 units                                   | 6 units                                  |
|  |        | 6 units                                   | 4 units                                  |

(2) A scholarship recipient under this section may continue to apply for scholarships under this section until the recipient has accumulated ninety-six eligibility units.

(3) If a scholarship recipient withdraws from courses prior to the end of an academic term so that the recipient's enrollment for that academic term is less than six credit hours, no scholarship shall be paid on behalf of that person for that academic term except that, Except as provided in division

(F)(3) of this section, if a scholarship has already been paid on behalf of the person for that academic term, the adjutant general shall add to that person's accumulated eligibility units the number of eligibility units for which the scholarship was paid.

(F) This division applies to any eligible applicant called into active duty on or after September 11, 2001. As used in this division, "active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

(1) An individual to whom this division applies is eligible for scholarships under this section for those academic terms that were missed or could have been missed as a result of the individual's call into active duty. Scholarships shall not be paid for the academic term in which an eligible applicant's enlistment obligation ends unless an applicant is eligible under this division for a scholarship for such academic term due to previous active duty.

(2) When an individual to whom this division applies withdraws or otherwise fails to complete courses, for which scholarships have been awarded under this section, because the individual was called into active duty, the institution of higher education shall grant the individual a leave of absence from the individual's education program and shall not impose any academic penalty for such withdrawal or failure to complete courses. Division (F)(2) of this section applies regardless of whether or not the scholarship amount was paid to the institution of higher education.

(3) If an individual to whom this division applies withdraws or otherwise fails to complete courses because the individual was called into active duty, and if scholarships for those courses have already been paid, either:

(a) The adjutant general shall not add to that person's accumulated eligibility units calculated under division (E) of this section the number of eligibility units for the academic courses or term for which the scholarship was paid and the institution of higher education shall repay the scholarship amount to the state.

(b) The adjutant general shall add to that individual's accumulated eligibility units calculated under division (E) of this section the number of eligibility units for the academic courses or term for which the scholarship was paid if the institution of higher education agrees to permit the individual to complete the remainder of the academic courses in which the individual was enrolled at the time the individual was called into active duty.

(G) A scholarship recipient under this section who fails to complete the

term of enlistment, re-enlistment, or extension of current enlistment the recipient was serving at the time a scholarship was paid on behalf of the recipient under this section is liable to the state for repayment of a percentage of all Ohio national guard scholarships paid on behalf of the recipient under this section, plus interest at the rate of ten per cent per annum calculated from the dates the scholarships were paid. This percentage shall equal the percentage of the current term of enlistment, re-enlistment, or extension of enlistment a recipient has not completed as of the date the recipient is discharged from the Ohio national guard.

The attorney general may commence a civil action on behalf of the adjutant general to recover the amount of the scholarships and the interest provided for in this division and the expenses incurred in prosecuting the action, including court costs and reasonable attorney's fees. A scholarship recipient is not liable under this division if the recipient's failure to complete the term of enlistment being served at the time a scholarship was paid on behalf of the recipient under this section is due to the recipient's death; discharge from the national guard due to disability; or the recipient's enlistment, for a term not less than the recipient's remaining term in the national guard, in the active component of the United States armed forces or the active reserve component of the United States armed forces.

(G)(H) On or before the first day of each academic term, the adjutant general shall provide an eligibility roster to each institution of higher education at which one or more scholarship recipients have applied for enrollment. The institution shall use the roster to certify the actual full-time or part-time enrollment of each scholarship recipient listed as enrolled at the institution and return the roster to the adjutant general within thirty days after the first day of the academic term. The adjutant general shall report to the Ohio board of regents the number of students in the Ohio national guard scholarship program at each institution of higher education. The Ohio board of regents shall provide for payment of the appropriate number and amount of scholarships to each institution of higher education pursuant to division (D) of this section. The adjutant general shall report on a quarterly basis to the director of budget and management, the speaker of the house of representatives, and the president of the senate the number of Ohio national guard scholarship recipients and a projection of the cost of the program for the remainder of the biennium.

(H)(I) The chancellor of the Ohio board of regents and the adjutant general may adopt rules pursuant to Chapter 119. of the Revised Code governing the administration and fiscal management of the Ohio national guard scholarship program and the procedure by which the Ohio board of

regents and the department of the adjutant general may modify the amount of scholarships a member receives based on the amount of other state financial aid a member receives.

~~(H)(J)~~ Notwithstanding division (A) of section 127.14 of the Revised Code, the controlling board shall not transfer all or part of any appropriation for the Ohio national guard scholarship program.

SECTION 2. That existing sections 124.151, 131.44, 173.06, 173.40, 2913.40, 3721.51, 3721.56, 5101.11, 5111.02, 5111.10, 5111.86, 5111.871, 5112.01, 5112.06, 5112.07, 5112.11, 5123.041, 5126.053, 5126.17, 5733.01, 5733.04, 5733.40, 5740.03, 5743.02, 5743.03, 5743.04, 5743.08, 5743.081, 5743.12, 5743.13, 5743.14, 5743.32, 5743.33, 5743.34, 5743.35, 5747.01, 5747.02, 5747.05, 5747.21, 5901.02, 5901.03, and 5919.34 and sections 5126.16, 5126.18, 5743.023, and 5743.322 of the Revised Code are hereby repealed.

SECTION 3. (A) As used in this section, "net additional tax" means the net additional amount of tax due on all packages of Ohio stamped cigarettes and on all unaffixed Ohio cigarette tax stamps that a wholesale or retail dealer has on hand as of the beginning of business on July 1, 2002, as a result of the amendment of section 5743.02 and the repeal of section 5743.023 of the Revised Code by this act.

(B) The amendment by this act of sections 5743.02, 5743.03, 5743.04, 5743.08, 5743.081, 5743.12, 5743.13, 5743.14, 5743.32, 5743.33, 5743.34, and 5743.35 and the repeal by this act of sections 5743.023 and 5743.322 of the Revised Code take effect July 1, 2002.

(C) In addition to the return required by section 5743.03 of the Revised Code, each wholesale dealer and each retail dealer shall make and file a return on forms prescribed by the Tax Commissioner, showing the net additional tax due and any other information that the Commissioner considers necessary for the administration of sections 5743.01 to 5743.20 of the Revised Code. Not later than July 31, 2002, each wholesale dealer and each retail dealer shall deliver the return to the Treasurer of State, together with a remittance of an amount equal to one-third of the net additional tax. The Treasurer of State shall stamp or otherwise mark on the return the date it was received and also shall show on the return by stamp or otherwise the tax payment remitted with the return. The Treasurer of State immediately shall transmit all returns filed under this section to the Tax Commissioner. Not later than August 31, 2002, and also not later than September 30, 2002,

each such dealer shall remit to the Treasurer of State an amount equal to one-third of the net additional tax. Any wholesale or retail dealer who fails to file a return or remit the net additional tax as prescribed by this section, for each day the dealer fails to do so, shall forfeit and pay into the state treasury, as revenue arising from the tax imposed by section 5743.02 of the Revised Code, a late charge equal to the greater of fifty dollars or ten per cent of the tax due. Any unpaid or unreported tax liability or late charge levied by this section may be collected by assessment in the manner provided in section 5743.081 or 5743.082 of the Revised Code.

(D) Notwithstanding section 5743.05 of the Revised Code, for cigarette tax stamps and meter impressions sold on or after July 1, 2002, and before May 1, 2003, to licensed dealers in good standing as of July 1, 2002, the Treasurer of State may sell and account for such stamps and meter impressions at their face value in effect on June 30, 2002, with the remainder due within thirty days, provided that if a wholesale or retail dealer does not pay the remainder within such thirty days, the Treasurer of State shall not thereafter sell stamps or meter impressions to that dealer until the dealer pays the outstanding amount, including penalty and interest on that amount as prescribed by Chapter 5743. of the Revised Code. In cases where such a dealer is permitted to purchase stamps or meter impressions on credit under this division, the bond shall not be required to secure payment of any amount in excess of the face value of stamps or meter impressions in effect on June 30, 2002, and otherwise payable as provided in this division, provided that if the dealer defaults on the obligation to pay any amount due, the Treasurer of State shall not thereafter sell stamps or meter impressions to that dealer until the dealer pays the outstanding amount, including penalty and interest on that amount as prescribed by Chapter 5743. of the Revised Code.

SECTION 4. (A) Except as provided in division (B) of this section, the amendment or enactment by this act of sections 5733.01, 5733.04, 5747.01, 5747.02, 5747.05, 5747.21, and 5747.212 of the Revised Code apply to taxable years ending on or after the effective date of this section.

(B)(1) The amendment by this act of divisions (A)(6), (I)(3), and (S)(12) of section 5747.01 and division (D) of section 5747.02 of the Revised Code apply to such taxable years as provided in those divisions.

(2) To ease taxpayer compliance burdens, each taxpayer having a taxable year ending after September 10, 2001, and before the effective date of this section, may elect to apply to that taxable year the amendment by this act of section 5733.04 of the Revised Code, by the addition of divisions

(I)(17) and (18) of that section, of section 5733.40, and of section 5747.01 of the Revised Code by the addition of divisions (A)(20) and (21) and (S)(14) of that section. If the taxpayer has more than one taxable year ending during that period and makes that election, the election applies to all those taxable years. The election shall accompany or be reflected in the report or return when filed, or shall accompany or be reflected in an amended report. The election is revocable at the option of the person making the election, but no revocation is effective if it is made after the ninetieth day before the last day of the applicable period of time described in division (B) of section 5733.12 or division (B) of section 5747.11 of the Revised Code, as applicable.

(C) Notwithstanding division (A) of section 5747.02 of the Revised Code, as amended by this act, the adjustment of the income amounts required to be made by that amendment in 2005 shall be made by multiplying the percentage increase in the gross domestic product deflator by each of the income amounts applicable to taxable years beginning in 2004, adding the resulting product to the corresponding income amount applicable to taxable years beginning in 2004, and rounding the resulting sum to the nearest multiple of fifty dollars.

SECTION 5. (A) The Committee to Study State and Local Taxes is hereby created. The committee shall consist of nine members. The Speaker of the House of Representatives shall appoint three members of the House of Representatives to the committee, not more than two of whom shall be from the majority party. The President of the Senate shall appoint three members of the Senate to the committee, not more than two of whom shall be from the majority party. One member shall be the Tax Commissioner, one shall be the Director of Budget and Management, and one shall be the Director of Development. Vacancies shall be filled in the same manner as original appointments. The members of the committee shall be appointed within thirty days after the effective date of this section. The members shall select a chairperson of the committee from among themselves. A majority of the committee constitutes a quorum for the conduct of official business.

(B) The committee may request staff assistance from the Legislative Service Commission as well as the participating agencies. The committee may meet during periods when the General Assembly has adjourned, and may solicit and take testimony from experts on public finance and taxation as well as from interested parties. All state agencies and local governments shall comply promptly with any requests by the committee for data or other information the committee requires to properly complete its research.

(C) The committee shall:

(1) Make a study of the current state and local tax structure, including a determination of how the current tax structure affects various sectors of the economy, such as business, industry, and individuals;

(2) Examine the current state and local tax structure with attention to its equity, simplicity, stability, neutrality, and competitiveness. The committee shall take ease of administration and compliance into consideration as an aspect of "simplicity." The committee shall take long term revenues into consideration as an aspect of "stability."

(3) Identify aspects of the tax structure that present particular obstacles to equity, simplicity, stability, neutrality, and competitiveness;

(4) Analyze who bears the ultimate tax burden with respect to any particular tax;

(5) Evaluate priorities in the tax structure.

(D) On or before March 1, 2003, the committee shall prepare and submit to the Governor, Speaker of the House of Representatives, and President of the Senate, and to the Minority Leaders of the House and Senate, a report summarizing the committee's review of the state and local tax structure. The report shall include recommendations for improvements in the tax structure, which recommendations shall be revenue neutral in the aggregate.

SECTION 6. That Section 8 of Am. Sub. S.B. 172 of the 123rd General Assembly be amended to read as follows:

" Sec. 8. Sections 6 and 7 of this act shall take effect July 1, 2002 2003."

SECTION 7. That existing Section 8 of Am. Sub. S.B. 172 of the 123rd General Assembly is hereby repealed.

SECTION 8. That Section 5.02 of Sub. H.B. 73 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 of the 124th General Assembly, be amended to read as follows:

" Sec. 5.02. ENFORCEMENT

State Highway Safety Fund Group

|             |                                    |                |                                    |
|-------------|------------------------------------|----------------|------------------------------------|
| 036 764-033 | Minor Capital Projects             | \$ 2,531,302   | \$ 1,732,358                       |
| 036 764-321 | Operating Expense - Highway Patrol | \$ 185,264,130 | \$ 195,245,402                     |
| 036 764-605 | Motor Carrier Enforcement Expense  | \$ 189,309     | \$ <u>192,411</u> <u>2,454,232</u> |
| 83C 764-630 | Contraband, Forfeiture, Other      | \$ 603,296     | \$ 622,894                         |

|                                    |                                       |                |  |
|------------------------------------|---------------------------------------|----------------|--|
| 83F 764-657                        | Law Enforcement Auto. Data System     | \$ 5,050,151   | \$ 5,277,569                                   |
| 83G 764-633                        | OMVI Fines                            | \$ 781,051     | \$ 820,927                                     |
| 831 764-610                        | Patrol/Federal                        | \$ 2,210,831   | \$ 2,336,609                                   |
| 831 764-659                        | Transportation Enforcement - Federal  | \$ 3,919,153   | \$ 4,087,361                                   |
| 837 764-602                        | Turnpike Policing                     | \$ 8,803,786   | \$ 9,306,325                                   |
| 838 764-606                        | Patrol Reimbursement                  | \$ 216,690     | \$ 222,108                                     |
| 840 764-607                        | State Fair Security                   | \$ 1,306,015   | \$ 1,384,660                                   |
| 840 764-617                        | Security and Investigations           | \$ 4,484,313   | \$ 4,749,103                                   |
| 840 764-626                        | State Fairgrounds Police Force        | \$ 783,175     | \$ 829,631                                     |
| 840 764-667                        | Security Assessment                   | \$ 152,324     | \$ 160,982                                     |
| 841 764-603                        | Salvage and Exchange - Highway Patrol | \$ 1,243,025   | \$ 1,274,101                                   |
| TOTAL HSF State Highway Safety     |                                       |                |  |
| Fund Group                         |                                       | \$ 217,538,551 | <u>\$ 228,242,441</u><br><u>\$ 230,504,262</u> |
| <b>General Services Fund Group</b> |                                       |                |  |
| 4S2 764-660                        | MARCS Maintenance                     | \$ 241,811     | \$ 227,222                                     |
| TOTAL GSF General Services         |                                       |                |  |
| Fund Group                         |                                       | \$ 241,811     | \$ 227,222                                     |
| TOTAL ALL BUDGET FUND GROUPS -     |                                       |                |  |
| Enforcement                        |                                       | \$ 217,780,362 | <u>\$ 228,469,663</u><br><u>\$ 230,731,484</u> |

#### COLLECTIVE BARGAINING INCREASES

Notwithstanding division (D) of section 127.14 and division (B) of section 131.35 of the Revised Code, except for the General Revenue Fund, the Controlling Board may, upon the request of either the Director of Budget and Management, or the Department of Public Safety with the approval of the Director of Budget and Management, increase appropriations for any fund, as necessary for the Department of Public Safety, to assist in paying the costs of increases in employee compensation that have occurred pursuant to collective bargaining agreements under Chapter 4117. of the Revised Code and, for exempt employees, under section 124.152 of the Revised Code.

#### PATROL REIMBURSEMENT FUND CASH TRANSFER

On the effective date of this amendment section as amended by Am. Sub. H.B. 405 of the 124th General Assembly or as soon as possible thereafter, the Director of Budget and Management shall transfer \$551,150.59 in cash from the Patrol Reimbursement Fund (Fund 838) to the Turnpike Policing Fund (Fund 837). This transfer will correct an inaccurate deposit made at the end of fiscal year 2001.

On the effective date of this amendment section as amended by Am. Sub. H.B. 405 of the 124th General Assembly or as soon as possible thereafter, the Director of Budget and Management shall transfer up to \$189,309 in cash in fiscal year 2002 and shall transfer up to \$192,411

\$2,454,232 in cash in fiscal year 2003 from the Financial Responsibility Compliance (Fund 835) to the State Highway Safety Fund (Fund 036)."

SECTION 9. That existing Section 5.02 of Sub. H.B. 73 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 of the 124th General Assembly, is hereby repealed.

SECTION 10. That Sections 16, 16.02, 44, 44.19, 63.07, 63.35, 75.02, 94, 94.02, 94.06, 94.07, and 125 of Am. Sub. H.B. 94 of the 124th General Assembly be amended to read as follows:

" Sec. 16. AGE DEPARTMENT OF AGING

General Revenue Fund

|                                |   |               |                      |
|--------------------------------|---|---------------|----------------------|
| GRF 490-321                    | Operating Expenses                        | \$ 2,896,946  | \$ 2,877,346         |
| GRF 490-403                    | PASSPORT                                  | \$ 60,630,444 | \$ <u>62,563,924</u> |
|                                |   |               | <u>70,363,924</u>    |
| GRF 490-405                    | Golden Buckeye Card                       | \$ 377,560    | \$ 377,560           |
| GRF 490-406                    | Senior Olympics                           | \$ 39,862     | \$ 39,862            |
| GRF 490-407                    | Long-Term Care Consumer Guide             | \$ 622,799    | \$ 622,799           |
| GRF 490-409                    | Ohio Community Service Council Operations | \$ 311,640    | \$ 311,640           |
| GRF 490-410                    | Long-Term Care Ombudsman                  | \$ 1,412,058  | \$ 1,412,058         |
| GRF 490-411                    | Senior Community Services                 | \$ 13,784,750 | \$ 13,784,750        |
| GRF 490-412                    | Residential State Supplement              | \$ 12,534,591 | \$ 12,290,915        |
| GRF 490-414                    | Alzheimers Respite                        | \$ 4,436,673  | \$ 4,436,673         |
| GRF 490-416                    | Transportation For Elderly                | \$ 183,000    | \$ 183,000           |
| <u>GRF 490-419</u>             | <u>Prescription Drug Discount Program</u> | <u>0</u>      | <u>177,000</u>       |
| GRF 490-499                    | Senior Employment Program                 | \$ 15,574     | \$ 15,574            |
| GRF 490-504                    | Senior Facilities                         | \$ 130,000    | \$ 100,000           |
| GRF 490-506                    | Senior Volunteers                         | \$ 491,614    | \$ 496,580           |
| TOTAL GRF General Revenue Fund |   | \$ 97,867,511 | \$ <u>99,512,684</u> |
|                                |   |               | <u>107,489,681</u>   |

General Services Fund Group

|                                       |   |            |            |
|---------------------------------------|---|------------|------------|
| 480 490-606                           | Senior Citizens Services Special Events | \$ 363,587 | \$ 372,677 |
| TOTAL GSF General Services Fund Group |   | \$ 363,587 | \$ 372,677 |

Federal Special Revenue Fund Group

|  |   |                |                |
|--|---|----------------|----------------|
| 3C4 490-607                                  | PASSPORT                                | \$ 129,645,833 | \$ 144,875,065 |
| 3M3 490-611                                  | Federal Aging Nutrition                 | \$ 22,943,588  | \$ 23,517,178  |
| 3M4 490-612                                  | Federal Supportive Services             | \$ 21,025,940  | \$ 21,545,338  |
| 3R7 490-617                                  | Ohio Community Service Council Programs | \$ 7,350,920   | \$ 7,350,920   |
| 322 490-618                                  | Older Americans Support Services        | \$ 10,873,661  | \$ 11,144,778  |
| TOTAL FED Federal Special Revenue Fund Group |   | \$ 191,839,942 | \$ 208,433,279 |

| <b>State Special Revenue Fund Group</b>    |   |    |             |    |  |
|--|---|----|-------------|----|--|
| 4C4 490-609                                | Regional Long-Term Care Ombudsman Program | \$ | 440,185     | \$ | 451,190                                  |
| 4J4 490-610                                | PASSPORT/Residential State Supplement     | \$ | 24,000,000  | \$ | 24,000,000                               |
| 4U9 490-602                                | PASSPORT Fund                             | \$ | 5,000,000   | \$ | 5,000,000                                |
| 5K9 490-613                                | Nursing Home Consumer Guide               | \$ | 400,000     | \$ | 400,000                                  |
| 624 490-604                                | OCSC Community Support                    | \$ | 2,500       | \$ | 2,500                                    |
| TOTAL SSR State Special Revenue Fund Group |   | \$ | 29,842,685  | \$ | 29,853,690                               |
| TOTAL ALL BUDGET FUND GROUPS               |   | \$ | 319,913,725 | \$ | <u>338,172,327</u><br><u>346,149,327</u> |

### Sec. 16.02. PASSPORT

Appropriation item 490-403, PASSPORT, and the amounts set aside for the PASSPORT Waiver Program in appropriation item 490-610, PASSPORT/Residential State Supplement, may be used to assess clients regardless of Medicaid eligibility.

The Director of Aging shall adopt rules under section 111.15 of the Revised Code governing the nonwaiver funded PASSPORT program, including client eligibility.

The Department of Aging shall administer the Medicaid Waiver funded PASSPORT Home Care program as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation item 490-403, PASSPORT, and the amounts set aside for the PASSPORT Waiver Program in appropriation item 490-610, PASSPORT/Residential State Supplement, shall be used to provide the required state match for federal Medicaid funds supporting the Medicaid Waiver funded PASSPORT Home Care program. Appropriation item 490-403, PASSPORT, and the amounts set aside for the PASSPORT Waiver Program in appropriation item 490-610, PASSPORT/Residential State Supplement, may also be used to support the Department of Aging's administrative costs associated with operating the PASSPORT program.

The foregoing appropriation item 490-607, PASSPORT, shall be used to provide the federal matching share for all PASSPORT program costs determined by the Department of Job and Family Services to be eligible for Medicaid reimbursement.

### SENIOR COMMUNITY SERVICES

The foregoing appropriation item 490-411, Senior Community Services, shall be used for services designated by the Department of Aging, including, but not limited to, home-delivered meals, transportation services, personal care services, respite services, home repair, and care coordination. Service priority shall be given to low income, frail, and cognitively impaired persons

60 years of age and over. The department shall promote cost sharing by service recipients for those services funded with block grant funds, including, where possible, sliding-fee scale payment systems based on the income of service recipients.

**ALZHEIMERS RESPITE**

The foregoing appropriation item 490-414, Alzheimers Respite, shall be used only to fund Alzheimer's disease services under section 173.04 of the Revised Code.

**TRANSPORTATION FOR ELDERLY**

The foregoing appropriation item 490-416, Transportation for Elderly, shall be used for non-capital expenses related to transportation services for the elderly that provide access to such things as healthcare services, congregate meals, socialization programs, and grocery shopping. The appropriation shall be allocated to the following agencies:

- (A) \$45,000 per fiscal year to the Cincinnati Jewish Vocational Services;
- (B) \$45,000 per fiscal year to the Cleveland Jewish Community Center;
- (C) \$45,000 per fiscal year to the Columbus Jewish Federation;
- (D) \$20,000 per fiscal year to the Dayton Jewish Family Services;
- (E) \$10,000 per fiscal year to the Akron Jewish Community Center;
- (F) \$5,000 per fiscal year to the Youngstown Jewish Federation;
- (G) \$3,000 per fiscal year to the Canton Jewish Federation;
- (H) \$10,000 per fiscal year to the Toledo Jewish Federation.

Agencies receiving funding from appropriation item 490-416, Transportation for Elderly, shall coordinate services with other local service agencies.

**RESIDENTIAL STATE SUPPLEMENT**

Under the Residential State Supplement Program, the amount used to determine whether a resident is eligible for payment and for determining the amount per month the eligible resident will receive shall be as follows:

- (A) \$900 for a residential care facility, as defined in section 3721.01 of the Revised Code;
- (B) \$900 for an adult group home, as defined in Chapter 3722. of the Revised Code;
- (C) \$800 for an adult foster home, as defined in Chapter 173. of the Revised Code;
- (D) \$800 for an adult family home, as defined in Chapter 3722. of the Revised Code;
- (E) \$800 for an adult community alternative home, as defined in Chapter 3724. of the Revised Code;

(F) \$800 for an adult residential facility, as defined in Chapter 5119. of the Revised Code;

(G) \$600 for adult community mental health housing services, as defined in division (B)(5) of section 173.35 of the Revised Code.

The Departments of Aging and Job and Family Services shall reflect this amount in any applicable rules the departments adopt under section 173.35 of the Revised Code.

**TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS**

The Department of Aging may transfer cash by intrastate transfer vouchers from the foregoing appropriation items 490-412, Residential State Supplement, and 490-610, PASSPORT/Residential State Supplement, to the Department of Job and Family Services' Fund 4J5, Home and Community-Based Services for the Aged Fund. The funds shall be used to make benefit payments to Residential State Supplement recipients.

**LONG-TERM CARE OMBUDSMAN**

The foregoing appropriation item 490-410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities in nursing homes, adult care facilities, boarding homes, and home and community care services.

**PRESCRIPTION DRUG DISCOUNT PROGRAM**

The foregoing appropriation item 490-419, Prescription Drug Discount Program, shall be used to administer a prescription drug discount program.

**SENIOR FACILITIES**

Of the foregoing appropriation item 490-504, Senior Facilities, in fiscal year 2002, \$10,000 shall be for the Tri-city Senior Center, \$10,000 shall be for the Westlake Senior Center, and \$10,000 shall be for the Rocky River Senior Center.

Of the foregoing appropriation item 490-504, Senior Facilities, \$10,000 shall be for the Jilliard Senior Center, \$10,000 shall be for the Northwest Stark County Senior Center, and \$10,000 shall be for the North Ridgeville Senior Center.

**REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAMS**

The foregoing appropriation item 490-609, Regional Long-Term Care Ombudsman Programs, shall be used solely to pay the costs of operating the regional long-term care ombudsman programs.

**PASSPORT/RESIDENTIAL STATE SUPPLEMENT**

Of the foregoing appropriation item 490-610, PASSPORT/Residential State Supplement, up to \$2,835,000 each fiscal year shall be used to fund the Residential State Supplement Program. The remaining available funds

shall be used to fund the PASSPORT program.

**Sec. 44. EDU DEPARTMENT OF EDUCATION**

**General Revenue Fund**

|             |   |                  |                  |
|-------------|---|------------------|------------------|
| GRF 200-100 | Personal Services                               | \$ 11,819,828    | \$ 12,113,828    |
| GRF 200-320 | Maintenance and Equipment                       | \$ 5,052,866     | \$ 5,185,051     |
| GRF 200-406 | Head Start                                      | \$ 98,843,825    | \$ 98,843,825    |
| GRF 200-408 | Public Preschool                                | \$ 19,506,206    | \$ 19,506,206    |
| GRF 200-410 | Professional Development                        | \$ 23,463,829    | \$ 34,810,579    |
| GRF 200-411 | Family and Children First                       | \$ 3,550,000     | \$ 3,550,000     |
| GRF 200-416 | Vocational Education Match                      | \$ 2,381,738     | \$ 2,381,738     |
| GRF 200-420 | Technical Systems Development                   | \$ 6,000,000     | \$ 6,500,000     |
| GRF 200-421 | Alternative Education Programs                  | \$ 18,000,000    | \$ 18,000,000    |
| GRF 200-422 | School Management Assistance                    | \$ 2,185,675     | \$ 1,971,219     |
| GRF 200-424 | Policy Analysis                                 | \$ 642,756       | \$ 674,894       |
| GRF 200-425 | Tech Prep Administration                        | \$ 2,431,012     | \$ 2,431,012     |
| GRF 200-426 | Ohio Educational Computer Network               | \$ 39,871,927    | \$ 39,871,927    |
| GRF 200-427 | Academic Standards                              | \$ 8,474,999     | \$ 8,862,500     |
| GRF 200-431 | School Improvement Initiatives                  | \$ 15,850,000    | \$ 14,625,000    |
| GRF 200-432 | School Conflict Management                      | \$ 626,496       | \$ 657,821       |
| GRF 200-433 | Reading/Writing Improvement                     | \$ 18,962,948    | \$ 19,276,694    |
| GRF 200-437 | Student Assessment                              | \$ 23,692,045    | \$ 25,942,045    |
| GRF 200-438 | Safe Schools                                    | \$ 2,050,000     | \$ 2,050,000     |
| GRF 200-441 | American Sign Language                          | \$ 232,073       | \$ 236,715       |
| GRF 200-442 | Child Care Licensing                            | \$ 1,517,751     | \$ 1,548,107     |
| GRF 200-444 | Professional Recruitment                        | \$ 1,917,000     | \$ 1,705,800     |
| GRF 200-445 | OhioReads Admin/Volunteer Support               | \$ 5,485,440     | \$ 5,485,440     |
| GRF 200-446 | Education Management Information System         | \$ 16,479,636    | \$ 17,573,430    |
| GRF 200-447 | GED Testing/Adult High School                   | \$ 2,038,678     | \$ 2,079,451     |
| GRF 200-455 | Community Schools                               | \$ 4,728,935     | \$ 4,824,517     |
| GRF 200-500 | School Finance Equity                           | \$ 23,560,125    | \$ 19,975,864    |
| GRF 200-501 | Base Cost Funding                               | \$ 4,273,654,781 | \$ 4,441,014,505 |
| GRF 200-502 | Pupil Transportation                            | \$ 334,183,786   | \$ 377,305,465   |
| GRF 200-503 | Bus Purchase Allowance                          | \$ 36,735,279    | \$ 36,799,984    |
| GRF 200-505 | School Lunch Match                              | \$ 9,639,000     | \$ 9,831,780     |
| GRF 200-509 | Adult Literacy Education                        | \$ 8,628,000     | \$ 8,628,000     |
| GRF 200-511 | Auxiliary Services                              | \$ 122,782,475   | \$ 127,650,709   |
| GRF 200-513 | Student Intervention Services                   | \$ 31,900,000    | \$ 38,280,000    |
| GRF 200-514 | Post-Secondary/Adult Career-Technical Education | \$ 23,240,243    | \$ 23,240,243    |
| GRF 200-520 | Disadvantaged Pupil Impact Aid                  | \$ 360,149,743   | \$ 360,149,743   |
| GRF 200-521 | Gifted Pupil Program                            | \$ 45,930,131    | \$ 47,983,321    |
| GRF 200-525 | Parity Aid                                      | \$ 99,813,832    | \$ 210,305,911   |
| GRF 200-532 | Nonpublic Administrative                        | \$ 53,533,703    | \$ 55,675,051    |

|             |  |  |                  |                  |
|-------------|--|--|------------------|------------------|
|             |  | Cost Reimbursement                           |                  |                  |
| GRF 200-534 |  | Desegregation Costs                          | \$ 500,000       | \$ 500,000       |
| GRF 200-540 |  | Special Education Enhancements               | \$ 139,006,701   | \$ 141,950,428   |
| GRF 200-545 |  | Career-Technical Education Enhancements      | \$ 21,673,574    | \$ 22,406,349    |
| GRF 200-546 |  | Charge-Off Supplement                        | \$ 39,191,433    | \$ 28,684,104    |
| GRF 200-552 |  | County MR/DD Boards Vehicle Purchases        | \$ 1,666,204     | \$ 1,666,204     |
| GRF 200-553 |  | County MR/DD Boards Transportation Operating | \$ 9,575,910     | \$ 9,575,910     |
| GRF 200-558 |  | Emergency Loan Interest Subsidy              | \$ 4,500,000     | \$ 3,300,000     |
| GRF 200-566 |  | OhioReads Grants                             | \$ 27,148,000    | \$ 27,148,000    |
| GRF 200-570 |  | School Improvement Incentive Grants          | \$ 837,500       | \$ 987,500       |
| GRF 200-574 |  | Substance Abuse Prevention                   | \$ 1,948,200     | \$ 1,948,200     |
| GRF 200-580 |  | Bethel School Cleanup                        | \$ 65,000        | \$ 65,000        |
| GRF 200-901 |  | Property Tax Allocation - Education          | \$ 707,700,000   | \$ 743,000,000   |
| GRF 200-906 |  | Tangible Tax Exemption - Education           | \$ 73,500,000    | \$ 75,700,000    |
| TOTAL GRF   |  | General Revenue Fund                         | \$ 6,786,869,283 | \$ 7,164,480,070 |
|             |  | <b>General Services Fund Group</b>           |                  |                  |
| 138 200-606 |  | Information Technology                       | \$ 6,629,469     | \$ 6,761,034     |
| 4D1 200-602 |  | Ohio Prevention/Education Resource Center    | \$ 345,000       | \$ 345,000       |
| 4L2 200-681 |  | Teacher Certification and Licensure          | \$ 4,684,143     | \$ 4,856,290     |
| 452 200-638 |  | Miscellaneous Revenue                        | \$ 1,045,000     | \$ 1,045,000     |
| 5H3 200-687 |  | School District Solvency Assistance          | \$ 24,000,000    | \$ 24,000,000    |
| 596 200-656 |  | Ohio Career Information System               | \$ 743,217       | \$ 769,230       |
| TOTAL GSF   |  | General Services Fund Group                  | \$ 37,446,829    | \$ 37,776,554    |
|             |  | <b>Federal Special Revenue Fund Group</b>    |                  |                  |
| 3C5 200-661 |  | Federal Dependent Care Programs              | \$ 18,189,907    | \$ 18,233,488    |
| 3D1 200-664 |  | Drug Free Schools                            | \$ 20,621,375    | \$ 20,660,570    |
| 3D2 200-667 |  | Honors Scholarship Program                   | \$ 2,454,688     | \$ 2,540,602     |
| 3H9 200-605 |  | Head Start Collaboration Project             | \$ 250,000       | \$ 250,000       |
| 3M0 200-623 |  | ESEA Chapter One                             | \$ 320,505,063   | \$ 330,172,277   |
| 3M1 200-678 |  | ESEA Chapter Two                             | \$ 13,595,978    | \$ 14,059,555    |
| 3M2 200-680 |  | Ind W/Disab Education Act                    | \$ 186,000,000   | \$ 206,000,000   |
| 3L6 200-617 |  | Federal School Lunch                         | \$ 175,274,000   | \$ 180,181,672   |
| 3L7 200-618 |  | Federal School Breakfast                     | \$ 45,746,000    | \$ 47,026,888    |
| 3L8 200-619 |  | Child and Adult Care Programs                | \$ 60,257,639    | \$ 61,966,125    |
| 3L9 200-621 |  | Vocational Education Basic Grant             | \$ 43,613,582    | \$ 45,142,330    |
| 3S2 200-641 |  | Tech Literacy Transfer                       | \$ 15,183,430    | \$ 15,183,430    |

|  |         |  |    |               |    |  |
|--|---------|--|----|---------------|----|--|
| 3T4  | 200-613 | Public Charter Schools                   | \$ | 4,887,260     | \$ | 5,055,185                                    |
| 3T6  | 200-611 | Class Size Reduction                     | \$ | 63,000,000    | \$ | 65,000,000                                   |
| 3U2  | 200-662 | Teacher Quality Enhancement Grants       | \$ | 1,300,501     | \$ | 1,352,000                                    |
| 3U3  | 200-665 | Reading Excellence Grant Program         | \$ | 10,018,756    | \$ | 0  |
| 3U6  | 200-675 | Provision 2 & 3 Grant                    | \$ | 191,050       | \$ | 0  |
| 309  | 200-601 | Educationally Disadvantaged              | \$ | 20,759,222    | \$ | 21,425,345                                   |
| 366  | 200-604 | Adult Basic Education                    | \$ | 17,527,286    | \$ | 18,140,740                                   |
| 367  | 200-607 | School Food Services                     | \$ | 10,089,884    | \$ | 10,408,199                                   |
| 368  | 200-614 | Veterans' Training                       | \$ | 648,514       | \$ | 671,212                                      |
| 369  | 200-616 | Vocational Education                     | \$ | 8,000,000     | \$ | 8,000,000                                    |
| 370  | 200-624 | Education of All Handicapped Children    | \$ | 1,364,246     | \$ | 1,410,908                                    |
| 371  | 200-631 | EEO Title IV                             | \$ | 1,155,361     | \$ | 1,213,894                                    |
| 374  | 200-647 | E.S.E.A. Consolidated                    | \$ | 110,094       | \$ | 110,094                                      |
| 378  | 200-660 | Math/Science Technology Investments      | \$ | 12,696,055    | \$ | 13,036,530                                   |
| TOTAL FED Federal Special Revenue Fund Group   |         |  | \$ | 1,053,439,891 | \$ | 1,087,241,044                                |
| <b>State Special Revenue Fund Group</b>        |         |  |    |               |    |  |
| 4R7  | 200-695 | Indirect Cost Recovery                   | \$ | 3,942,779     | \$ | 4,168,947                                    |
| 4V7  | 200-633 | Interagency Vocational Support           | \$ | 695,197       | \$ | 731,674                                      |
| 053  | 200-900 | School District Property Tax Replacement | \$ | 102,000,000   | \$ | 115,911,593                                  |
| 454  | 200-610 | Guidance and Testing                     | \$ | 940,636       | \$ | 956,761                                      |
| 455  | 200-608 | Commodity Foods                          | \$ | 10,000,000    | \$ | 11,000,000                                   |
| 598  | 200-659 | Auxiliary Services Mobile Units          | \$ | 1,328,910     | \$ | 1,328,910                                    |
| 620  | 200-615 | Educational Grants                       | \$ | 1,525,000     | \$ | 1,525,000                                    |
| TOTAL SSR State Special Revenue Fund Group     |         |  | \$ | 120,432,522   | \$ | 135,622,885                                  |
| <b>Lottery Profits Education Fund Group</b>    |         |  |    |               |    |  |
| 017  | 200-612 | Base Cost Funding                        | \$ | 604,000,000   | \$ | 596,000,000                                  |
| 017  | 200-682 | Lease Rental Payment Reimbursement       | \$ | 29,722,100    | \$ | <u>25,722,600</u><br><u>35,722,600</u>       |
| TOTAL LPE Lottery Profits Education Fund Group |         |  | \$ | 633,722,100   | \$ | <u>621,722,600</u><br><u>631,722,600</u>     |
| TOTAL ALL BUDGET FUND GROUPS                   |         |  | \$ | 8,631,910,625 | \$ | <u>9,046,843,153</u><br><u>9,056,843,153</u> |

#### Sec. 44.19. LOTTERY PROFITS EDUCATION FUND

Appropriation item 200-612, Base Cost Funding (Fund 017), shall be used in conjunction with appropriation item 200-501, Base Cost Funding (GRF), to provide payments to school districts pursuant to Chapter 3317. of the Revised Code.

Of the foregoing appropriation item 200-612, Base Cost Funding (Fund 017), \$25,000,000 in each fiscal year shall be used from the funds transferred from the Unclaimed Prizes Trust Fund pursuant to the section

entitled "Transfers from the Unclaimed Prizes Fund" of ~~this act~~ Am. Sub. H.B. 94 of the 124th General Assembly.

The Department of Education, with the approval of the Director of Budget and Management, shall determine the monthly distribution schedules of appropriation item 200-501, Base Cost Funding (GRF), and appropriation item 200-612, Base Cost Funding (Fund 017). If adjustments to the monthly distribution schedule are necessary, the Department of Education shall make such adjustments with the approval of the Director of Budget and Management.

Of the foregoing appropriation item 200-682, Lease Rental Payment Reimbursement (Fund 017), \$10,000,000 in fiscal year 2003 shall be used from the funds transferred from the Unclaimed Prizes Trust Fund pursuant to the paragraph with the heading "Transfers from the Unclaimed Prizes Fund" in Am. Sub. H.B. 94 of the 124th General Assembly.

The Director of Budget and Management shall transfer via intrastate transfer voucher the amount appropriated under the Lottery Profits Education Fund for appropriation item 200-682, Lease Rental Payment Reimbursement, to the General Revenue Fund on a schedule determined by the director. These funds shall support the appropriation item 230-428, Lease Rental Payments (GRF), of the School Facilities Commission.

#### LOTTERY PROFITS TRANSFERS\*

On the fifteenth day of May of each fiscal year, the Director of Budget and Management shall determine if lottery profits transfers will meet the appropriation amounts from the Lottery Profits Education Fund.

On or after the date specified in each fiscal year, if the director determines that lottery profits will not meet appropriations and if other funds are not available to meet the shortfall, the Superintendent of Public Instruction shall take the actions specified under the "Reallocation of Funds" section of ~~this act~~ Am. Sub. H.B. 94 of the 124th General Assembly.

#### TRANSFERS FROM THE UNCLAIMED PRIZES FUND

By the fifteenth day of January, or as soon as possible thereafter, of fiscal year 2002 and fiscal year 2003, the Director of Budget and Management shall respectively transfer \$25,000,000 for fiscal year 2002 and \$35,000,000 for fiscal year 2003 from the State Lottery Commission's Unclaimed Prizes Fund to the Lottery Profits Education Fund, to be used solely for purposes specified in the Department of Education's budget. Transfers of unclaimed prizes under this provision shall not count as lottery profits in the determination made concerning excess profits titled "Lottery Profits" under the Department of Education in ~~this act~~ Am. Sub. H.B. 94 of the 124th General Assembly.

**TEACHER CERTIFICATION AND LICENSURE**

The foregoing appropriation item 200-681, Teacher Certification and Licensure, shall be used by the Department of Education in each year of the biennium to administer teacher certification and licensure functions pursuant to sections 3301.071, 3301.074, 3301.50, 3301.51, 3319.088, 3319.22, 3319.24 to 3319.28, 3319.281, 3319.282, 3319.29, 3319.301, 3319.31, and 3319.51 of the Revised Code.

**Sec. 63.07. MEDICAID PROGRAM SUPPORT FUND - STATE**

The foregoing appropriation item 600-671, Medicaid Program Support, shall be used by the Department of Job and Family Services to pay for Medicaid services and contracts.

**HEALTH CARE SERVICES ADMINISTRATION**

The foregoing appropriation item 600-654, Health Care Services Administration, shall be used by the Department of Job and Family Services for costs associated with the administration of the Medicaid program.

**HEALTH CARE SERVICES ADMINISTRATION FUND**

For fiscal year 2003, the Director of Job and Family Services may deposit revenue received from federal reimbursement for allowable Title XIX administrative expenditures made by state or local entities into the Health Care Services Administration Fund (Fund 5U3).

Of the amount received by the Department of Job and Family Services during fiscal year 2003 from the first installment of assessments paid under section 5112.06 of the Revised Code and intergovernmental transfers made under section 5112.07 of the Revised Code, the Director of Job and Family Services shall deposit \$175,000 into the state treasury to the credit of the Health Care Services Administration Fund (Fund 5U3).

**Sec. 63.35. (A) As used in this section:**

(1) "Medicaid days" means all days during which a resident who is a Medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days.

(2) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(3) "Total per diem rate" includes the payments made to nursing facilities under division (B) of the section of this act Am. Sub. H.B. 94 of the 124th General Assembly titled "Nursing Facility Stabilization Fund."

(B) Notwithstanding sections 5111.20 to 5111.32 of the Revised Code,

rates paid to nursing facilities under the Medicaid program shall be subject to the following limitations:

(1) For fiscal year 2002, the mean total per diem rate for all nursing facilities in the state, weighted by Medicaid days and calculated as of July 1, 2001, under sections 5111.20 to 5111.32 of the Revised Code, shall not exceed \$143.92.

(2) For fiscal year 2003, the mean total per diem rate for all nursing facilities in the state, weighted by Medicaid days and calculated as of July 1, 2002, under sections 5111.20 to 5111.32 of the Revised Code, shall not exceed ~~\$152.66~~ ~~\$153.41~~, plus any difference between \$143.92 and the mean total per diem rate for all nursing facilities in the state for fiscal year 2002, weighted by Medicaid days and calculated as of July 1, 2001, under sections 5111.20 to 5111.32 of the Revised Code.

(3) If the mean total per diem rate for all nursing facilities in the state for fiscal year 2002 or 2003, weighted by Medicaid days and calculated under sections 5111.20 to 5111.32 of the Revised Code as of the first day of July of the calendar year in which the fiscal year begins, exceeds the amount specified for that fiscal year in division (B)(1) or (2) of this section, the Department of Job and Family Services shall reduce the total per diem rate for each nursing facility in the state by a percentage that is equal to the percentage by which the mean total per diem rate exceeds the amount specified in division (B)(1) or (2) of this section for that fiscal year.

(4) Subsequent to any reduction required by division (B)(1), (2), or (3) of this section, a nursing facility's rate shall be subject to any adjustments required or authorized by sections 5111.20 to 5111.32 of the Revised Code during the remainder of the fiscal year.

(C) Except as follows, the Department of Job and Family Services shall continue to implement rules adopted under sections 5111.02 and 5111.20 to 5111.32 of the Revised Code regarding Medicaid payments to nursing facilities that are in effect on the effective date of this section:

(1) The Department shall not continue to implement a rule that is inconsistent with ~~this act~~ Am. Sub. H.B. 94 of the 124th General Assembly, but shall instead implement this act.

(2) The Department may adopt, amend, or rescind rules under sections 5111.02 and 5111.20 to 5111.32 of the Revised Code as provided by those sections to the extent those sections are consistent with ~~this act~~ Am. Sub. H.B. 94 of the 124th General Assembly.

## Sec. 75.02. COMMUNITY SERVICES

### General Revenue Fund

|             |                         |    |             |    |             |
|-------------|-------------------------|----|-------------|----|-------------|
| GRF 322-405 | State Use Program       | \$ | 264,685     | \$ | 264,685     |
| GRF 322-413 | Residential and Support | \$ | 154,418,317 | \$ | 164,539,811 |

|   |   |                |                |  |
|---|---|----------------|----------------|--|
|   | Services                                  |                |                |  |
| GRF 322-451                                     | Family Support Services                   | \$ 7,975,870   | \$ 7,975,870   |  |
| GRF 322-452                                     | Case Management                           | \$ 8,984,491   | \$ 9,874,628   |  |
| GRF 322-501                                     | County Boards Subsidies                   | \$ 45,366,297  | \$ 46,817,644  |  |
| TOTAL GRF General Revenue Fund                  |   | \$ 217,009,660 | \$ 229,722,638 |  |
|   | <b>General Services Fund Group</b>        |                |                |  |
| 4J6 322-645                                     | Intersystem Services for Children         | \$ 5,000,000   | \$ 5,000,000   |  |
| 4U4 322-606                                     | Community MR and DD Trust                 | \$ 125,000     | \$ 131,250     |  |
| 4V1 322-611                                     | Program Support                           | \$ 2,000,000   | \$ 2,000,000   |  |
| 488 322-603                                     | Residential Services Refund               | \$ 2,499,188   | \$ 2,499,188   |  |
| TOTAL GSF General Services Fund Group           |   | \$ 9,624,188   | \$ 9,630,438   |  |
|   | <b>Federal Special Revenue Fund Group</b> |                |                |  |
| 3A4 322-605                                     | Community Program Support                 | \$ 3,024,047   | \$ 3,326,452   |  |
| 3A4 322-610                                     | Community Residential Support             | \$ 5,924,858   | \$ 5,924,858   |  |
| 3A5 322-613                                     | DD Council Grants                         | \$ 3,358,290   | \$ 3,358,290   |  |
| 3G6 322-639                                     | Medicaid Waiver                           | \$ 148,304,949 | \$ 151,754,169 |  |
| 3M7 322-650                                     | CAFS Medicaid                             | \$ 163,747,903 | \$ 172,568,939 |  |
| 325 322-608                                     | Federal Grants - Operating Expenses       | \$ 1,360,000   | \$ 1,360,000   |  |
| 325 322-612                                     | Social Service Block Grant                | \$ 11,500,000  | \$ 11,500,000  |  |
| 325 322-617                                     | Education Grants - Operating              | \$ 115,000     | \$ 115,000     |  |
| TOTAL FED Federal Special Revenue Fund Group    |   | \$ 337,335,047 | \$ 349,907,708 |  |
|   | <b>State Special Revenue Fund Group</b>   |                |                |  |
| 4K8 322-604                                     | Waiver - Match                            | \$ 13,783,463  | \$ 14,039,133  |  |
| 5H0 322-619                                     | Medicaid Repayment                        | \$ 562,080     | \$ 576,132     |  |
| TOTAL SSR State Special Revenue Fund Group      |   | \$ 14,345,543  | \$ 14,615,265  |  |
| TOTAL ALL COMMUNITY SERVICES BUDGET FUND GROUPS |   | \$ 578,314,438 | \$ 603,626,049 |  |

#### RESIDENTIAL AND SUPPORT SERVICES

The foregoing appropriation item 322-413, Residential and Support Services, shall be used for any of the following:

- (A) Home and community-based waiver services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended;
- (B) Services contracted by county boards of mental retardation and developmental disabilities;
- (C) Supported living services contracted by county boards of mental retardation and developmental disabilities in accordance with sections 5126.40 to 5126.47 of the Revised Code;
- (D) Sermak Class Services used to implement the requirements of the

consent decree in *Sermak v. Manuel*, Case No. c-2-80-220, United States District Court for the Southern District of Ohio, Eastern Division;

(E) Other Medicaid-reimbursed programs, in an amount not to exceed \$1,000,000 in each fiscal year, that enable persons with mental retardation and developmental disabilities to live in the community.

Notwithstanding Chapters 5123. and 5126. of the Revised Code, the Department of Mental Retardation and Developmental Disabilities may develop residential and support service programs that enable persons with mental retardation and developmental disabilities to live in the community. Notwithstanding Chapter 5121. and section 5123.122 of the Revised Code, the department may waive the support collection requirements of those statutes for persons in community programs developed by the department under this section. The department shall adopt rules under Chapter 119. of the Revised Code or may use existing rules for the implementation of these programs.

The Department of Mental Retardation and Developmental Disabilities may designate a portion of appropriation item 332-413, Residential and Support Services, to county boards of mental retardation and developmental disabilities that have greater need for various residential and support services due to a low percentage of residential and support services development in comparison to the number of individuals with mental retardation or developmental disabilities in the county.

Not later than 30 days after the effective date of this section, the Director of Budget and Management shall transfer up to \$5,000,000 from appropriation item 322-413, Residential and Support Services, to appropriation item 322-501, County Boards Subsidies. The total amount that is transferred from appropriation item 322-413 to appropriation item 322-501 shall be used for the tax equalization program ~~created under sections 5126.16 to section 5126.18 of the Revised Code, as amended and renumbered by S.B. 261 of the 124th General Assembly~~, and is subject to all statutes and rules established for the tax equalization program.

Not later than July 30, 2002, the Director of Budget and Management shall transfer up to \$11,500,000 from appropriation item 322-413, Residential and Support Services, to appropriation item 322-501, County Boards Subsidies. The total amount that is transferred from appropriation item 322-413 to appropriation item 322-501 shall be used for the tax equalization program ~~created under sections 5126.16 to section 5126.18 of the Revised Code, as amended and renumbered by S.B. 261 of the 124th General Assembly~~, and is subject to all statutes and rules established for the tax equalization program.

Of the foregoing appropriation item 322-413, Residential and Support Services, \$9,700,000 in fiscal year 2002 and \$9,850,000 in fiscal year 2003 shall be distributed by the Department to county boards of mental retardation and developmental disabilities to support existing residential facilities waiver and individual options waiver related Medicaid activities provided for in the component of a county board's plan developed under division (A)(2) of section 5126.054 of the Revised Code and approved under section 5123.046 of the Revised Code. Up to \$3,000,000 of these funds in each fiscal year may be used to implement day-to-day program management services under division (A)(2) of section 5126.054 of the Revised Code. Up to \$4,200,000 in each fiscal year may be used to implement the program and health and welfare requirements of division (A)(2) of section 5126.054 of the Revised Code.

In fiscal years 2002 and 2003, not less than \$2,500,000 and \$2,650,000, respectively, of these funds shall be used to recruit and retain, under division (A)(2) of section 5126.054 of the Revised Code, the direct care staff necessary to implement the services included in an individualized service plan in a manner that ensures the health and welfare of the individuals being served.

#### **FAMILY SUPPORT SERVICES**

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 5126.11 of the Revised Code, the Department of Mental Retardation and Developmental Disabilities may implement programs funded by appropriation item 322-451, Family Support Services, to provide assistance to persons with mental retardation or developmental disabilities and their families who are living in the community. The department shall adopt rules to implement these programs.

#### **CASE MANAGEMENT**

The foregoing appropriation item 322-452, Case Management, shall be allocated to county boards of mental retardation and developmental disabilities for the purpose of providing case management services and to assist in bringing state funding for all department-approved case managers within county boards of mental retardation and developmental disabilities to the level authorized in division (C) of section 5126.15 of the Revised Code. The department may request approval from the Controlling Board to transfer any unobligated appropriation authority from other state General Revenue Fund appropriation items within the department's budget to appropriation item 322-452, Case Management, to be used to meet the statutory funding level in division (C) of section 5126.15 of the Revised Code.

Notwithstanding division (C) of section 5126.15 of the Revised Code

and subject to funding in appropriation item 322-452, Case Management, no county may receive less than its allocation in fiscal year 1995.

**STATE SUBSIDIES TO MR/DD BOARDS**

Of the foregoing appropriation item 322-501, County Boards Subsidies, \$6,500,000 in fiscal year 2002 and \$13,000,000 in fiscal year 2003 shall be used to fund the tax equalization program ~~created under sections 5126.16 to section 5126.18 of the Revised Code, as amended and renumbered by S.B. 261 of the 124th General Assembly~~, for county boards of mental retardation and developmental disabilities. ~~The tax equalization program shall utilize the average daily membership of adults 22 years of age and older in habilitation, vocational, and community employment services only for the yield on 1/2 mills.~~

After funding the tax equalization program, the Department of Mental Retardation and Developmental Disabilities shall distribute ~~the any~~ remaining appropriation authority in appropriation item 322-501, County Boards Subsidies, to county boards of mental retardation and developmental disabilities for subsidies distributed pursuant to section 5126.12 of the Revised Code to the limit of the lesser of the amount required by that section or the remaining balance of the appropriation authority in appropriation item 322-501 prorated to all county boards of mental retardation and developmental disabilities.

**INTERSYSTEM SERVICES FOR CHILDREN**

The foregoing appropriation item 322-645, Intersystem Services for Children, shall be used to support direct grants to county family and children first councils created under section 121.37 of the Revised Code. The funds shall be used as partial support payment and reimbursement for locally coordinated treatment plans for multi-needs children that come to the attention of the Family and Children First Cabinet Council pursuant to section 121.37 of the Revised Code. The Department of Mental Retardation and Developmental Disabilities may use up to five per cent of this amount for administrative expenses associated with the distribution of funds to the county councils.

**WAIVER - MATCH**

The foregoing appropriation item 322-604, Waiver-Match (Fund 4K8), shall be used as state matching funds for the home and community-based waivers.

The Department of Job and Family Services may enter into an interagency agreement with the Department of Mental Retardation and Developmental Disabilities providing for the Department of Mental Retardation and Developmental Disabilities to operate the program.

## Sec. 94. BOR BOARD OF REGENTS

## General Revenue Fund

|                    |  |                  |                     |
|--------------------|--|------------------|---------------------|
| GRF 235-321        | Operating Expenses                                 | \$ 3,137,394     | \$ 3,137,394        |
| GRF 235-401        | Lease-Rental Payments                              | \$ 295,058,500   | \$ 268,910,500      |
| GRF 235-402        | Sea Grants   | \$ 299,940       | \$ 299,940          |
| GRF 235-403        | Math/Science Teaching Improvement                  | \$ 1,984,000     | \$ 2,018,680        |
| GRF 235-404        | College Readiness Initiatives                      | \$ 2,500,000     | \$ 2,500,000        |
| GRF 235-406        | Articulation and Transfer                          | \$ 800,000       | \$ 800,000          |
| GRF 235-408        | Midwest Higher Education Compact                   | \$ 75,000        | \$ 75,000           |
| GRF 235-409        | Information System                                 | \$ 1,362,023     | \$ 1,362,023        |
| GRF 235-414        | State Grants and Scholarship Administration        | \$ 1,373,420     | \$ 1,373,420        |
| GRF 235-415        | Jobs Challenge                                     | \$ 10,100,000    | \$ 10,200,000       |
| GRF 235-417        | Ohio Learning Network                              | \$ 3,920,000     | \$ 3,920,000        |
| GRF 235-418        | Access Challenge                                   | \$ 62,268,000    | \$ 62,268,000       |
| GRF 235-420        | Success Challenge                                  | \$ 47,041,000    | \$ 47,041,000       |
| GRF 235-428        | Appalachian New Economy Partnership                | \$ 1,000,000     | \$ 1,500,000        |
| <u>GRF 235-451</u> | <u>Eminent Scholars</u>                            | <u>\$ 0</u>      | <u>\$ 3,000,000</u> |
| GRF 235-454        | Research Challenge                                 | \$ 20,000,000    | \$ 20,000,000       |
| GRF 235-455        | Productivity Improvement Challenge                 | \$ 1,694,947     | \$ 1,728,845        |
| GRF 235-474        | Area Health Education Centers Program Support      | \$ 2,093,727     | \$ 2,135,601        |
| GRF 235-477        | Access Improvement Projects                        | \$ 1,110,879     | \$ 1,110,879        |
| GRF 235-501        | State Share of Instruction                         | \$ 1,659,011,727 | \$ 1,668,611,581    |
| GRF 235-502        | Student Support Services                           | \$ 1,000,000     | \$ 1,000,000        |
| GRF 235-503        | Ohio Instructional Grants                          | \$ 98,000,000    | \$ 111,500,000      |
| GRF 235-504        | War Orphans Scholarships                           | \$ 4,652,548     | \$ 4,792,124        |
| GRF 235-507        | OhioLINK   | \$ 7,668,731     | \$ 7,668,731        |
| GRF 235-508        | Air Force Institute of Technology                  | \$ 2,000,000     | \$ 2,000,000        |
| GRF 235-509        | Displaced Homemakers                               | \$ 240,096       | \$ 240,096          |
| GRF 235-510        | Ohio Supercomputer Center                          | \$ 4,833,574     | \$ 4,833,574        |
| GRF 235-511        | Cooperative Extension Service                      | \$ 27,708,525    | \$ 27,708,525       |
| GRF 235-513        | OU Voinovich Center                                | \$ 367,500       | \$ 367,500          |
| GRF 235-514        | Central State Supplement                           | \$ 12,044,956    | \$ 12,044,956       |
| GRF 235-515        | Case Western Reserve University School of Medicine | \$ 4,280,224     | \$ 4,281,936        |
| GRF 235-519        | Family Practice                                    | \$ 6,538,471     | \$ 6,541,087        |
| GRF 235-520        | Shawnee State Supplement                           | \$ 2,272,000     | \$ 2,272,000        |
| GRF 235-521        | OSU Glenn Institute                                | \$ 367,500       | \$ 367,500          |
| GRF 235-524        | Police and Fire Protection                         | \$ 240,096       | \$ 240,096          |
| GRF 235-525        | Geriatric Medicine                                 | \$ 1,087,195     | \$ 1,108,939        |
| GRF 235-526        | Primary Care Residencies                           | \$ 3,166,168     | \$ 3,229,491        |
| GRF 235-527        | Ohio Aerospace Institute                           | \$ 2,383,334     | \$ 2,383,334        |
| GRF 235-530        | Academic Scholarships                              | \$ 8,000,000     | \$ 8,000,000        |
| GRF 235-531        | Student Choice Grants                              | \$ 52,428,000    | \$ 53,476,560       |
| GRF 235-534        | Student Workforce                                  | \$ 1,200,000     | \$ 1,200,000        |

|                                |   |                             |                             |
|--------------------------------|---|-----------------------------|-----------------------------|
| GRF 235-535                    | Development Grants<br>Ohio Agricultural Research and Development Center | \$ 38,730,884               | \$ 38,730,884               |
| GRF 235-536                    | Ohio State University Clinical Teaching                                 | \$ 15,989,883               | \$ 15,996,281               |
| GRF 235-537                    | University of Cincinnati Clinical Teaching                              | \$ 13,151,461               | \$ 13,156,724               |
| GRF 235-538                    | Medical College of Ohio at Toledo Clinical Teaching                     | \$ 10,250,851               | \$ 10,254,953               |
| GRF 235-539                    | Wright State University Clinical Teaching                               | \$ 4,980,064                | \$ 4,982,057                |
| GRF 235-540                    | Ohio University Clinical Teaching                                       | \$ 4,814,378                | \$ 4,816,305                |
| GRF 235-541                    | Northeastern Ohio Universities College of Medicine Clinical Teaching    | \$ 4,951,583                | \$ 4,953,565                |
| GRF 235-543                    | Ohio College of Podiatric Medicine Clinical Subsidy                     | \$ 499,800                  | \$ 500,000                  |
| GRF 235-547                    | School of International Business  | \$ 1,708,764                | \$ 1,708,764                |
| GRF 235-549                    | Part-time Student Instructional Grants                                  | \$ 13,311,638               | \$ 13,977,219               |
| GRF 235-552                    | Capital Component   | \$ 14,537,639               | \$ 14,537,639               |
| GRF 235-553                    | Dayton Area Graduate Studies Institute                                  | \$ 3,779,088                | \$ 3,779,088                |
| GRF 235-554                    | Computer Science Graduate Education                                     | \$ 3,482,368                | \$ 3,482,368                |
| GRF 235-555                    | Library Depositories  | \$ 1,999,200                | \$ 2,039,184                |
| GRF 235-556                    | Ohio Academic Resources Network   | \$ 3,510,777                | \$ 3,580,993                |
| GRF 235-558                    | Long-term Care Research   | \$ 312,004                  | \$ 312,004                  |
| GRF 235-561                    | Bowling Green State University Canadian Studies Center                  | \$ 164,289                  | \$ 164,289                  |
| GRF 235-572                    | Ohio State University Clinic Support                                    | \$ 2,061,138                | \$ 2,061,138                |
| GRF 235-583                    | Urban University Programs   | \$ 6,503,559                | \$ 6,503,559                |
| GRF 235-585                    | Ohio University Innovation Center                                       | \$ 48,750                   | \$ 48,750                   |
| GRF 235-587                    | Rural University Projects   | \$ 1,375,552                | \$ 1,375,552                |
| GRF 235-588                    | Ohio Resource Center for Mathematics, Science, and Reading              | \$ 980,000                  | \$ 980,000                  |
| GRF 235-595                    | International Center for Water Resources Development                    | \$ 185,593                  | \$ 185,593                  |
| GRF 235-596                    | Hazardous Materials Program   | \$ 390,096                  | \$ 390,096                  |
| GRF 235-599                    | National Guard Scholarship Program                                      | \$ 12,048,106               | \$ 12,048,106               |
| GRF 235-909                    | Higher Education General Obligation Debt Service                        | \$ 50,055,100               | \$ 74,344,100               |
| TOTAL GRF General Revenue Fund |   | \$ <u>2,565,132,040</u>     | \$ <u>2,589,158,523</u>     |
|                                |   | <u><u>2,565,132,040</u></u> | <u><u>2,592,158,523</u></u> |

General Services Fund Group

|   |   |                  |   |
|---|---|------------------|---|
| 456 235-603                               | Publications  | \$ 43,050        | \$ 44,342                                       |
| 456 235-613                               | Job Preparation Initiative                            | \$ 144,383       | \$ 144,383                                      |
| TOTAL GSF General Services                |   |                  |   |
| Fund Group                                |   | \$ 187,433       | \$ 188,725                                      |
| <b>Federal Special Revenue Fund Group</b> |   |                  |   |
| 3H2 235-608                               | Human Services Project                                | \$ 1,500,000     | \$ 1,500,000                                    |
| 3N6 235-605                               | State Student Incentive Grants                        | \$ 2,000,000     | \$ 2,000,000                                    |
| 3T0 235-610                               | NHSC Ohio Loan Repayment                              | \$ 100,000       | \$ 100,000                                      |
| 312 235-609                               | Tech Prep   | \$ 183,852       | \$ 183,852                                      |
| 312 235-611                               | Gear-up Grant   | \$ 1,590,986     | \$ 1,690,434                                    |
| 312 235-612                               | Carl D. Perkins Grant/Plan Administration             | \$ 112,960       | \$ 112,960                                      |
| 312 235-631                               | Federal Grants  | \$ 2,055,511     | \$ 0  |
| TOTAL FED Federal Special Revenue         |   | \$ 7,543,309     | \$ 5,587,246                                    |
| Fund Group                                |   |                  |   |
| <b>State Special Revenue Fund Group</b>   |   |                  |   |
| 4E8 235-602                               | HEFC Administration                                   | \$ 13,080        | \$ 13,900                                       |
| 4P4 235-604                               | Physician Loan Repayment                              | \$ 416,067       | \$ 436,870                                      |
| 649 235-607                               | Ohio State University Highway/Transportation Research | \$ 855,021       | \$ 760,000                                      |
| 682 235-606                               | Nursing Loan Program                                  | \$ 870,000       | \$ 893,000                                      |
| TOTAL SSR State Special Revenue           |   | \$ 2,154,168     | \$ 2,103,770                                    |
| Fund Group                                |   |                  |   |
| TOTAL ALL BUDGET FUND GROUPS              |   | \$ 2,575,016,950 | \$ <u>2,597,038,264</u><br><u>2,600,038,264</u> |

**Sec. 94.02. MISSION-BASED CORE FUNDING FOR HIGHER EDUCATION**

**JOBS CHALLENGE**

Funds appropriated to appropriation item 235-415, Jobs Challenge, shall be distributed to state-assisted community and technical colleges, regional campuses of state-assisted universities, and other organizationally distinct and identifiable member campuses of the EnterpriseOhio Network in support of noncredit job-related training. In fiscal years 2002 and 2003, \$2,114,673 and \$1,981,841, respectively, shall be distributed as performance grants to EnterpriseOhio Network campuses based upon each campus's documented performance according to criteria established by the Board of Regents for increasing training and related services to businesses, industries, and public sector organizations.

Of the foregoing appropriation item 235-415, Jobs Challenge, \$3,130,087 in fiscal year 2002 and \$2,875,953 in fiscal year 2003 shall be allocated to the Targeted Industries Training Grant Program to attract, develop, and retain business and industry strategically important to the state's economy.

Also, in fiscal years 2002 and 2003, \$2,991,513 and \$3,629,797, respectively, shall be allocated to the Non-credit Incentives Grant Program

to reward two-year campuses for increasing the amount of non-credit skill upgrading services provided to Ohio employers and employees. The funds shall be distributed to campuses in proportion to each campus's share of noncredit job-related training revenues received by all campuses for the previous fiscal year. It is the intent of the General Assembly that this workforce development incentive component of the Jobs Challenge Program reward campus noncredit job-related training efforts in the same manner that the Research Challenge Program rewards campuses for their ability to obtain sponsored research revenues.

Of the foregoing appropriation item 235-415, Jobs Challenge, \$1,863,726 in fiscal year 2002 and \$1,712,409 in fiscal year 2003 shall be allocated as an incentive to support local EnterpriseOhio Network Campus/Adult Workforce Education Center Partnerships. The purpose of the partnerships is to promote and deliver coordinated, comprehensive training to local employers. Each partnership shall include a formal agreement between one or more EnterpriseOhio Network campus and one or more adult workforce education center for the delivery of training services.

#### ACCESS CHALLENGE

In each fiscal year, the foregoing appropriation item 235-418, Access Challenge, shall be distributed to Ohio's state-assisted access colleges and universities. For the purposes of this allocation, "access campuses" includes state-assisted community colleges, state community colleges, technical colleges, Shawnee State University, Central State University, Cleveland State University, the regional campuses of state-assisted universities, and, where they are organizationally distinct and identifiable, the community-technical colleges located at the University of Cincinnati, Youngstown State University, and the University of Akron.

In fiscal years 2002 and 2003, Access Challenge subsidies shall be distributed by the Board of Regents to eligible access campuses on the basis of each campus's share of fiscal year 1999 all-terms subsidy eligible General Studies FTEs. For the purpose of these calculations, the average all-terms subsidy eligible General Studies FTEs for Youngstown State University's eligible Comm-Tech enrollments shall equal 348.

For the purposes of this calculation, Cleveland State University's enrollments shall be adjusted by the ratio of the sum of subsidy-eligible lower-division FTE student enrollments eligible for access funding to the sum of subsidy-eligible General Studies FTE student enrollments at Central State University and Shawnee State University, and for the following universities and their regional campuses: Ohio State University, Ohio University, Kent State University, Bowling Green State University, Miami

University, the University of Cincinnati, the University of Akron, and Wright State University.

**SUCCESS CHALLENGE**

The foregoing appropriation item 235-420, Success Challenge, shall be used by the Board of Regents to promote degree completion by students enrolled at a main campus of a state-assisted university.

In each fiscal year, two-thirds of the appropriations shall be distributed to state-assisted university main campuses in proportion to each campus's share of the total statewide bachelor's degrees granted by university main campuses to "at-risk" students. In fiscal years 2002 and 2003, an "at-risk" student means any undergraduate student who has received an Ohio Instructional Grant during the past ten years. An eligible institution shall not receive its share of this distribution until it has submitted a plan that addresses how the subsidy will be used to better serve at-risk students and increase their likelihood of successful completion of a bachelor's degree program. The Board of Regents shall disseminate to all state-supported institutions of higher education all such plans submitted by institutions that received Success Challenge funds.

In each fiscal year, one-third of the appropriations shall be distributed to university main campuses in proportion to each campus's share of the total bachelor's degrees granted by university main campuses to undergraduate students who completed their bachelor's degrees in a "timely manner" in the previous fiscal year. For the purposes of this section, "timely manner" means the normal time it would take for a full-time degree-seeking undergraduate student to complete the student's degree. Generally, for such students pursuing a bachelor's degree, "timely manner" means four years. Exceptions to this general rule shall be permitted for students enrolled in programs specifically designed to be completed in a longer time period. The Board of Regents shall collect base-line data beginning with the 1998-99 academic year to assess the timely completion statistics by university main campuses.

**EMINENT SCHOLARS**

The foregoing appropriation item 235-451, Eminent Scholars, shall be used by the Ohio Board of Regents to establish an Ohio Eminent Scholars Program, the purpose of which is to invest educational resources to address problems that are of vital statewide significance while fostering the growth in eminence of Ohio's academic programs. Endowment grants of \$750,000 to state colleges and universities and nonprofit Ohio institutions of higher education holding certificates of authorization issued under section 1713.02 of the Revised Code to match endowment gifts from nonstate sources may

be made in accordance with a plan established by the Ohio Board of Regents. Matching gifts in science and technology programs shall be \$750,000, and in all other program areas, \$500,000. The grants shall have as their purpose attracting and sustaining in Ohio scholar-leaders of national or international prominence, each of whom will assist the state in one of the following three areas: (1) improving the state's economic development; (2) strengthening the state's system of K-12 education; or (3) improving public health and safety. Such scholar-leaders shall, among their duties, share broadly the benefits and knowledge unique to their fields of scholarship to the betterment of Ohio and its people.

#### RESEARCH CHALLENGE

The foregoing appropriation item 235-454, Research Challenge, shall be used to enhance the basic research capabilities of public colleges and universities and accredited Ohio institutions of higher education holding certificates of authorization issued pursuant to section 1713.02 of the Revised Code, in order to strengthen academic research for pursuing Ohio's economic redevelopment goals. The Board of Regents, in consultation with the colleges and universities, shall administer the Research Challenge Program and utilize a means of matching, on a fractional basis, external funds attracted in the previous year by institutions for basic research. The program may include incentives for increasing the amount of external research funds coming to eligible institutions and for focusing research efforts upon critical state needs. Colleges and universities shall submit for review and approval to the Board of Regents plans for the institutional allocation of state dollars received through the program. The institutional plans shall provide the rationale for the allocation in terms of the strategic targeting of funds for academic and state purposes, for strengthening research programs, and for increasing the amount of external research funds, and shall include an evaluation process to provide results of the increased support.

The Board of Regents shall submit a biennial report of progress to the General Assembly.

#### COMPUTER SCIENCE GRADUATE EDUCATION

The foregoing appropriation item 235-554, Computer Science Graduate Education, shall be used by the Board of Regents to support improvements in graduate programs in computer science at state-assisted universities. In each fiscal year, up to \$200,000 may be used to support collaborative efforts in graduate education in this program area.

#### Sec. 94.06. PLEDGE OF FEES\*

Any new pledge of fees, or new agreement for adjustment of fees, made

in the 2001-2003 biennium to secure bonds or notes of a state-assisted institution of higher education for a project for which bonds or notes were not outstanding on the effective date of this section shall be effective only after approval by the Board of Regents, unless approved in a previous biennium.

#### HIGHER EDUCATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 235-909, Higher Education General Obligation Debt Service, shall be used to pay all debt service and financing costs at the times they are required to be made pursuant to sections 151.01 and 151.04 of the Revised Code during the period from July 1, 2001, to June 30, 2003. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an interstate transfer voucher.

~~Of the foregoing appropriation item 235-909, Higher Education General Obligation Debt Service, surplus funds net of encumbrances from the appropriation for fiscal year 2002 shall be reappropriated to appropriation item 235-501, State Share of Instruction, for fiscal year 2003.~~

#### LEASE RENTAL PAYMENTS

The foregoing appropriation item 235-401, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2001, to June 30, 2003, by the Board of Regents pursuant to leases and agreements made under section 154.21 of the Revised Code, but limited to the aggregate amount of \$563,969,000. Nothing in ~~this act~~ Am. Sub. H.B. 94 of the 124th General Assembly shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.21 of the Revised Code.

~~Of the foregoing appropriation item 235-401, Lease Rental Payments, surplus funds net of encumbrances from the appropriation for fiscal year 2002 shall be reappropriated to appropriation item 235-501, State Share of Instruction, for fiscal year 2003.~~

#### Sec. 94.07. OHIO INSTRUCTIONAL GRANTS

Notwithstanding section 3333.12 of the Revised Code, in lieu of the tables in that section, instructional grants for all full-time students shall be made for fiscal year 2002 using the tables under this heading.

The tables under this heading prescribe the maximum grant amounts covering two semesters, three quarters, or a comparable portion of one academic year. The grant amount for a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the

academic year covered by a grant determined under these tables shall be a percentage of the maximum prescribed in the applicable table. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under the table. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under the table.

For a full-time student who is a dependent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

| Gross Income        | Maximum Grant \$5,160 |         |         |         |           |
|---------------------|-----------------------|---------|---------|---------|-----------|
|                     | Number of Dependents  |         |         |         |           |
|                     | 1                     | 2       | 3       | 4       | 5 or more |
| Under \$14,000      | \$5,160               | \$5,160 | \$5,160 | \$5,160 | \$5,160   |
| \$14,001 - \$15,000 | 4,644                 | 5,160   | 5,160   | 5,160   | 5,160     |
| \$15,001 - \$16,000 | 4,116                 | 4,644   | 5,160   | 5,160   | 5,160     |
| \$16,001 - \$17,000 | 3,612                 | 4,116   | 4,644   | 5,160   | 5,160     |
| \$17,001 - \$18,000 | 3,102                 | 3,612   | 4,116   | 4,644   | 5,160     |
| \$18,001 - \$21,000 | 2,586                 | 3,102   | 3,612   | 4,116   | 4,644     |
| \$21,001 - \$24,000 | 2,058                 | 2,586   | 3,102   | 3,612   | 4,116     |
| \$24,001 - \$27,000 | 1,536                 | 2,058   | 2,586   | 3,102   | 3,612     |
| \$27,001 - \$30,000 | 1,272                 | 1,536   | 2,058   | 2,586   | 3,102     |
| \$30,001 - \$31,000 | 1,020                 | 1,272   | 1,536   | 2,058   | 2,586     |
| \$31,001 - \$32,000 | 930                   | 1,020   | 1,272   | 1,536   | 2,058     |
| \$32,001 - \$33,000 | 840                   | 930     | 1,020   | 1,272   | 1,536     |
| \$33,001 - \$34,000 | 420                   | 840     | 930     | 1,020   | 1,272     |
| \$34,001 - \$35,000 | --                    | 420     | 840     | 930     | 1,020     |
| \$35,001 - \$36,000 | --                    | --      | 420     | 840     | 930       |
| \$36,001 - \$37,000 | --                    | --      | --      | 420     | 840       |
| \$37,001 - \$38,000 | --                    | --      | --      | --      | 420       |

For a full-time student who is financially independent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

**Private Institution  
Table of Grants**

| Gross Income        | Maximum Grant \$5,160 |         |         |         |         |              |
|---------------------|-----------------------|---------|---------|---------|---------|--------------|
|                     | Number of Dependents  |         |         |         |         |              |
|                     | 0                     | 1       | 2       | 3       | 4       | 5 or<br>more |
| Under \$4,500       | \$5,160               | \$5,160 | \$5,160 | \$5,160 | \$5,160 | \$5,160      |
| \$4,501 - \$5,000   | 4,644                 | 5,160   | 5,160   | 5,160   | 5,160   | 5,160        |
| \$5,001 - \$5,500   | 4,116                 | 4,644   | 5,160   | 5,160   | 5,160   | 5,160        |
| \$5,501 - \$6,000   | 3,612                 | 4,116   | 4,644   | 5,160   | 5,160   | 5,160        |
| \$6,001 - \$6,500   | 3,102                 | 3,612   | 4,116   | 4,644   | 5,160   | 5,160        |
| \$6,501 - \$7,000   | 2,586                 | 3,102   | 3,612   | 4,116   | 4,644   | 5,160        |
| \$7,001 - \$8,000   | 2,058                 | 2,586   | 3,102   | 3,612   | 4,116   | 4,644        |
| \$8,001 - \$9,000   | 1,536                 | 2,058   | 2,586   | 3,102   | 3,612   | 4,116        |
| \$9,001 - \$10,000  | 1,272                 | 1,536   | 2,058   | 2,586   | 3,102   | 3,612        |
| \$10,001 - \$11,500 | 1,020                 | 1,272   | 1,536   | 2,058   | 2,586   | 3,102        |
| \$11,501 - \$13,000 | 930                   | 1,020   | 1,272   | 1,536   | 2,058   | 2,586        |
| \$13,001 - \$14,500 | 840                   | 930     | 1,020   | 1,272   | 1,536   | 2,058        |
| \$14,501 - \$16,000 | 420                   | 840     | 930     | 1,020   | 1,272   | 1,536        |
| \$16,001 - \$19,000 | --                    | 420     | 840     | 930     | 1,020   | 1,272        |
| \$19,001 - \$22,000 | --                    | --      | 420     | 840     | 930     | 1,020        |
| \$22,001 - \$25,000 | --                    | --      | --      | 420     | 840     | 930          |
| \$25,001 - \$30,000 | --                    | --      | --      | --      | 420     | 840          |
| \$30,001 - \$35,000 | --                    | --      | --      | --      | --      | 420          |

For a full-time student who is a dependent and enrolled in an educational institution that holds a certificate of registration from the state board of proprietary school registration, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

**Proprietary Institution  
Table of Grants**

| Gross Income        | Maximum Grant \$4,374 |         |         |         |              |         |
|---------------------|-----------------------|---------|---------|---------|--------------|---------|
|                     | Number of Dependents  |         |         |         |              |         |
|                     | 1                     | 2       | 3       | 4       | 5 or<br>more |         |
| Under \$14,000      | \$4,374               | \$4,374 | \$4,374 | \$4,374 | \$4,374      | \$4,374 |
| \$14,001 - \$15,000 | 3,948                 | 4,374   | 4,374   | 4,374   | 4,374        | 4,374   |
| \$15,001 - \$16,000 | 3,480                 | 3,948   | 4,374   | 4,374   | 4,374        | 4,374   |
| \$16,001 - \$17,000 | 3,042                 | 3,480   | 3,948   | 4,374   | 4,374        | 4,374   |
| \$17,001 - \$18,000 | 2,634                 | 3,042   | 3,480   | 3,948   | 4,374        |         |

|                     |       |       |       |       |       |
|---------------------|-------|-------|-------|-------|-------|
| \$18,001 - \$21,000 | 2,166 | 2,634 | 3,042 | 3,480 | 3,948 |
| \$21,001 - \$24,000 | 1,752 | 2,166 | 2,634 | 3,042 | 3,480 |
| \$24,001 - \$27,000 | 1,338 | 1,752 | 2,166 | 2,634 | 3,042 |
| \$27,001 - \$30,000 | 1,074 | 1,338 | 1,752 | 2,166 | 2,634 |
| \$30,001 - \$31,000 | 858   | 1,074 | 1,338 | 1,752 | 2,166 |
| \$31,001 - \$32,000 | 804   | 858   | 1,074 | 1,338 | 1,752 |
| \$32,001 - \$33,000 | 708   | 804   | 858   | 1,074 | 1,338 |
| \$33,001 - \$34,000 | 354   | 708   | 804   | 858   | 1,074 |
| \$34,001 - \$35,000 | --    | 354   | 708   | 804   | 858   |
| \$35,001 - \$36,000 | --    | --    | 354   | 708   | 804   |
| \$36,001 - \$37,000 | --    | --    | --    | 354   | 708   |
| \$37,001 - \$38,000 | --    | --    | --    | --    | 354   |

For a full-time student who is financially independent and enrolled in an educational institution that holds a certificate of registration from the state board of proprietary school registration, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

| Gross Income        | Proprietary Institution |         |         |         |         |           |
|---------------------|-------------------------|---------|---------|---------|---------|-----------|
|                     | Table of Grants         |         |         |         |         |           |
|                     | Maximum Grant \$4,374   |         |         |         |         |           |
|                     | Number of Dependents    |         |         |         |         |           |
|                     | 0                       | 1       | 2       | 3       | 4       | 5 or more |
| Under \$4,500       | \$4,374                 | \$4,374 | \$4,374 | \$4,374 | \$4,374 | \$4,374   |
| \$4,501 - \$5,000   | 3,948                   | 4,374   | 4,374   | 4,374   | 4,374   | 4,374     |
| \$5,001 - \$5,500   | 3,480                   | 3,948   | 4,374   | 4,374   | 4,374   | 4,374     |
| \$5,501 - \$6,000   | 3,042                   | 3,480   | 3,948   | 4,374   | 4,374   | 4,374     |
| \$6,001 - \$6,500   | 2,634                   | 3,042   | 3,480   | 3,948   | 4,374   | 4,374     |
| \$6,501 - \$7,000   | 2,166                   | 2,634   | 3,042   | 3,480   | 3,948   | 4,374     |
| \$7,001 - \$8,000   | 1,752                   | 2,166   | 2,634   | 3,042   | 3,480   | 3,948     |
| \$8,001 - \$9,000   | 1,338                   | 1,752   | 2,166   | 2,634   | 3,042   | 3,480     |
| \$9,001 - \$10,000  | 1,074                   | 1,338   | 1,752   | 2,166   | 2,634   | 3,042     |
| \$10,001 - \$11,500 | 858                     | 1,074   | 1,338   | 1,752   | 2,166   | 2,634     |
| \$11,501 - \$13,000 | 804                     | 858     | 1,074   | 1,338   | 1,752   | 2,166     |
| \$13,001 - \$14,500 | 708                     | 804     | 858     | 1,074   | 1,338   | 1,752     |
| \$14,501 - \$16,000 | 354                     | 708     | 804     | 858     | 1,074   | 1,338     |
| \$16,001 - \$19,000 | --                      | 354     | 708     | 804     | 858     | 1,074     |
| \$19,001 - \$22,000 | --                      | --      | 354     | 708     | 804     | 858       |
| \$22,001 - \$25,000 | --                      | --      | --      | 354     | 708     | 804       |
| \$25,001 - \$30,000 | --                      | --      | --      | --      | 354     | 708       |

|                     |    |    |    |    |    |     |
|---------------------|----|----|----|----|----|-----|
| \$30,001 - \$35,000 | -- | -- | -- | -- | -- | 354 |
|---------------------|----|----|----|----|----|-----|

For a full-time student who is a dependent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

| Gross Income        | Public Institution<br>Table of Grants         |         |         |         |              |
|---------------------|---|---------|---------|---------|--------------|
|                     | Maximum Grant \$2,070<br>Number of Dependents |         |         |         |              |
|                     | 1   | 2       | 3       | 4       | 5 or<br>more |
| Under \$14,000      | \$2,070                                       | \$2,070 | \$2,070 | \$2,070 | \$2,070      |
| \$14,001 - \$15,000 | 1,866   | 2,070   | 2,070   | 2,070   | 2,070        |
| \$15,001 - \$16,000 | 1,644   | 1,866   | 2,070   | 2,070   | 2,070        |
| \$16,001 - \$17,000 | 1,458   | 1,644   | 1,866   | 2,070   | 2,070        |
| \$17,001 - \$18,000 | 1,248   | 1,458   | 1,644   | 1,866   | 2,070        |
| \$18,001 - \$21,000 | 1,020   | 1,248   | 1,458   | 1,644   | 1,866        |
| \$21,001 - \$24,000 | 816   | 1,020   | 1,248   | 1,458   | 1,644        |
| \$24,001 - \$27,000 | 612   | 816     | 1,020   | 1,248   | 1,458        |
| \$27,001 - \$30,000 | 492   | 612     | 816     | 1,020   | 1,248        |
| \$30,001 - \$31,000 | 396   | 492     | 612     | 816     | 1,020        |
| \$31,001 - \$32,000 | 366   | 396     | 492     | 612     | 816          |
| \$32,001 - \$33,000 | 336   | 366     | 396     | 492     | 612          |
| \$33,001 - \$34,000 | 168   | 336     | 366     | 396     | 492          |
| \$34,001 - \$35,000 | --  | 168     | 336     | 366     | 396          |
| \$35,001 - \$36,000 | --  | --      | 168     | 336     | 366          |
| \$36,001 - \$37,000 | --  | --      | --      | 168     | 336          |
| \$37,001 - \$38,000 | --  | --      | --      | --      | 168          |

For a full-time student who is financially independent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

| Gross Income      | Public Institution<br>Table of Grants         |         |         |         |         |              |
|-------------------|---|---------|---------|---------|---------|--------------|
|                   | Maximum Grant \$2,070<br>Number of Dependents |         |         |         |         |              |
|                   | 0   | 1       | 2       | 3       | 4       | 5 or<br>more |
| Under \$4,500     | \$2,070                                       | \$2,070 | \$2,070 | \$2,070 | \$2,070 | \$2,070      |
| \$4,501 - \$5,000 | 1,866   | 2,070   | 2,070   | 2,070   | 2,070   | 2,070        |

|                     |       |       |       |       |       |       |
|---------------------|-------|-------|-------|-------|-------|-------|
| \$5,001 - \$5,500   | 1,644 | 1,866 | 2,070 | 2,070 | 2,070 | 2,070 |
| \$5,501 - \$6,000   | 1,458 | 1,644 | 1,866 | 2,070 | 2,070 | 2,070 |
| \$6,001 - \$6,500   | 1,248 | 1,458 | 1,644 | 1,866 | 2,070 | 2,070 |
| \$6,501 - \$7,000   | 1,020 | 1,248 | 1,458 | 1,644 | 1,866 | 2,070 |
| \$7,001 - \$8,000   | 816   | 1,020 | 1,248 | 1,458 | 1,644 | 1,866 |
| \$8,001 - \$9,000   | 612   | 816   | 1,020 | 1,248 | 1,458 | 1,644 |
| \$9,001 - \$10,000  | 492   | 612   | 816   | 1,020 | 1,248 | 1,458 |
| \$10,001 - \$11,500 | 396   | 492   | 612   | 816   | 1,020 | 1,248 |
| \$11,501 - \$13,000 | 366   | 396   | 492   | 612   | 816   | 1,020 |
| \$13,001 - \$14,500 | 336   | 366   | 396   | 492   | 612   | 816   |
| \$14,501 - \$16,000 | 168   | 336   | 366   | 396   | 492   | 612   |
| \$16,001 - \$19,000 | --    | 168   | 336   | 366   | 396   | 492   |
| \$19,001 - \$22,000 | --    | --    | 168   | 336   | 366   | 396   |
| \$22,001 - \$25,000 | --    | --    | --    | 168   | 336   | 366   |
| \$25,001 - \$30,000 | --    | --    | --    | --    | 168   | 336   |
| \$30,001 - \$35,000 | --    | --    | --    | --    | --    | 168   |

The foregoing appropriation item 235-503, Ohio Instructional Grants, shall be used to make the payments authorized by division (C) of section 3333.26 of the Revised Code to the institutions described in that division. In addition, this appropriation shall be used to reimburse the institutions described in division (B) of section 3333.26 of the Revised Code for the cost of the waivers required by that division.

Of the appropriation item 235-503, Ohio Instructional Grants, up to \$3,800,000 of surplus funds net of encumbrances from the appropriation for fiscal year 2002 shall be reappropriated to appropriation item 235-534, Student Workforce Development Grants, for fiscal year 2003.

#### WAR ORPHANS SCHOLARSHIPS

The foregoing appropriation item 235-504, War Orphans Scholarships, shall be used to reimburse state-assisted institutions of higher education for waivers of instructional fees and general fees provided by them, to provide grants to institutions that have received a certificate of authorization from the Ohio Board of Regents under Chapter 1713. of the Revised Code, in accordance with the provisions of section 5910.04 of the Revised Code, and to fund additional scholarship benefits provided by section 5910.032 of the Revised Code.

#### PART-TIME STUDENT INSTRUCTIONAL GRANTS

The foregoing appropriation item 235-549, Part-time Student Instructional Grants, shall be used to support a grant program for part-time undergraduate students who are Ohio residents and who are enrolled in degree granting programs.

Eligibility for participation in the program shall include degree granting educational institutions that hold a certificate of registration from the State Board of Proprietary School Registration, and nonprofit institutions that have a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, as well as state-assisted colleges and universities. Grants shall be given to students on the basis of need, as determined by the college, which, in making these determinations, shall give special consideration to single-parent heads-of-household and displaced homemakers who enroll in an educational degree program that prepares the individual for a career. In determining need, the college also shall consider the availability of educational assistance from a student's employer. It is the intent of the General Assembly that these grants not supplant such assistance.

**Sec. 125. UNCLAIMED FUNDS ~~TRANSFER~~ TRANSFER**

Notwithstanding division (A) of section 169.05 of the Revised Code, prior to June 30, 2003, upon the request of the Director of Budget and Management, the Director of Commerce shall transfer to the General Revenue Fund up to ~~\$30,000,000~~ \$80,800,000 of the unclaimed funds that have been reported by the holder of unclaimed funds as provided by section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section."

**SECTION 11.** That existing Sections 16, 16.02, 44, 44.19, 63.07, 63.35, 75.02, 94, 94.02, 94.06, 94.07, and 125 of Am. Sub. H.B. 94 of the 124th General Assembly are hereby repealed.

**SECTION 12.** That Section 13 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 524 of the 124th General Assembly, be amended to read as follows:

**" Sec. 13. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES  
General Revenue Fund**

|             |  |              |              |
|-------------|--|--------------|--------------|
| GRF 100-402 | Unemployment Compensation                          | \$ 107,713   | \$ 109,114   |
| GRF 100-405 | Agency Audit Expenses                              | \$ 662,147   | \$ 614,704   |
| GRF 100-406 | County & University Human Resources Services       | \$ 850,133   | \$ 838,777   |
| GRF 100-409 | Departmental Information Services                  | \$ 948,332   | \$ 975,481   |
| GRF 100-414 | Ohio Geographically Referenced Information Program | \$ 512,410   | \$ 510,807   |
| GRF 100-416 | Strategic Technology Development Programs          | \$ 3,470,440 | \$ 5,000,000 |
| GRF 100-417 | MARCS  | \$ 5,350,344 | \$ 6,176,160 |

|  |  |                |                       |                    |
|--|--|----------------|-----------------------|--------------------|
| GRF 100-418                                    | E-Government Development                 | \$ 2,000,000   | \$ 4,000,000          | <u>4,676,915</u>   |
| GRF 100-419                                    | Ohio SONET                               | \$ 4,527,924   | \$ 1,785,270          |                    |
| GRF 100-420                                    | Innovation Ohio                          | \$ 144,000     | \$ 144,000            |                    |
| GRF 100-421                                    | ERP Project Implementation               | \$ 600,000     | \$ 624,000            |                    |
| GRF 100-433                                    | State of Ohio Computer Center            | \$ 5,003,580   | \$ 5,027,234          |                    |
| GRF 100-439                                    | Equal Opportunity Certification Programs | \$ 817,894     | \$ 861,093            |                    |
| GRF 100-447                                    | OBA - Building Rent Payments             | \$ 96,106,300  | \$ 110,268,500        |                    |
| GRF 100-448                                    | OBA - Building Operating Payments        | \$ 26,098,000  | \$ 26,098,000         |                    |
| GRF 100-449                                    | DAS - Building Operating Payments        | \$ 5,126,955   | \$ 5,126,968          |                    |
| GRF 100-451                                    | Minority Affairs                         | \$ 119,706     | \$ 118,043            |                    |
| GRF 100-734                                    | Major Maintenance                        | \$ 70,224      | \$ 68,376             |                    |
| GRF 102-321                                    | Construction Compliance                  | \$ 1,392,590   | \$ 1,396,506          |                    |
| GRF 130-321                                    | State Agency Support Services            | \$ 3,632,427   | \$ 3,740,888          |                    |
| TOTAL GRF General Revenue Fund                 |  | \$ 157,541,119 | \$ <u>173,483,924</u> | <u>171,984,676</u> |
| <b>General Services Fund Group</b>             |  |                |                       |                    |
| 112 100-616                                    | DAS Administration                       | \$ 5,243,105   | \$ 5,503,547          |                    |
| 115 100-632                                    | Central Service Agency                   | \$ 1,259,438   | \$ 376,844            |                    |
| 117 100-644                                    | General Services Division - Operating    | \$ 5,790,000   | \$ 7,091,000          |                    |
| 122 100-637                                    | Fleet Management                         | \$ 1,600,913   | \$ 1,652,189          |                    |
| 125 100-622                                    | Human Resources Division - Operating     | \$ 23,895,125  | \$ 24,640,311         |                    |
| 127 100-627                                    | Vehicle Liability Insurance              | \$ 3,373,835   | \$ 3,487,366          |                    |
| 128 100-620                                    | Collective Bargaining                    | \$ 3,292,859   | \$ 3,410,952          |                    |
| 130 100-606                                    | Risk Management Reserve                  | \$ 185,900     | \$ 197,904            |                    |
| 131 100-639                                    | State Architect's Office                 | \$ 7,504,787   | \$ 7,772,789          |                    |
| 132 100-631                                    | DAS Building Management                  | \$ 10,887,913  | \$ 11,362,872         |                    |
| 188 100-649                                    | Equal Opportunity Programs               | \$ 1,214,691   | \$ 1,253,311          |                    |
| 201 100-653                                    | General Services Resale Merchandise      | \$ 1,779,000   | \$ 1,833,000          |                    |
| 210 100-612                                    | State Printing                           | \$ 6,648,503   | \$ 6,928,823          |                    |
| 4H2 100-604                                    | Governor's Residence Gift                | \$ 22,628      | \$ 23,194             |                    |
| 4P3 100-603                                    | Departmental MIS Services                | \$ 7,447,713   | \$ 7,761,365          |                    |
| 427 100-602                                    | Investment Recovery                      | \$ 4,204,735   | \$ 4,179,184          |                    |
| 5C2 100-605                                    | MARCS Development                        | \$ 3,429,947   | \$ 4,475,190          |                    |
| 5C3 100-608                                    | Skilled Trades                           | \$ 2,237,200   | \$ 2,332,464          |                    |
| 5D7 100-621                                    | Workforce Development                    | \$ 12,000,000  | \$ 12,000,000         |                    |
| 5L7 100-610                                    | Professional Development                 | \$ 2,700,000   | \$ 2,700,000          |                    |
| TOTAL GSF General Services Fund Group          |  | \$ 104,718,292 | \$ 108,982,305        |                    |
| <b>Intragovernmental Service Fund Group</b>    |  |                |                       |                    |
| 133 100-607                                    | Information Technology Fund              | \$ 104,482,097 | \$ 111,387,436        |                    |
| 4N6 100-617                                    | Major Computer Purchases                 | \$ 12,000,000  | \$ 4,500,000          |                    |
| TOTAL ISF Intragovernmental Service Fund Group |  | \$ 116,482,097 | \$ 115,887,436        |                    |

**Agency Fund Group**

|                             |                           |                  |                  |
|-----------------------------|---------------------------|------------------|------------------|
| 113 100-628                 | Unemployment Compensation | \$ 3,500,000     | \$ 3,577,000     |
| 124 100-629                 | Payroll Deductions        | \$ 1,877,100,000 | \$ 1,999,100,000 |
| TOTAL AGY Agency Fund Group |                           | \$ 1,880,600,000 | \$ 2,002,677,000 |

**Holding Account Redistribution Fund Group**

|                              |                          |                  |                          |
|------------------------------|--------------------------|------------------|--------------------------|
| R08 100-646                  | General Services Refunds | \$ 20,000        | \$ 20,000                |
| TOTAL 090 Holding Account    |                          | \$ 20,000        | \$ 20,000                |
| Redistribution Fund Group    |                          | \$ 2,259,361,508 | \$ <u>2,401,050,662</u>  |
| TOTAL ALL BUDGET FUND GROUPS |                          | \$ 2,259,361,508 | \$ <u>2,399,551,417"</u> |

SECTION 13. That existing Section 13 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 524 of the 124th General Assembly, is hereby repealed.

SECTION 14. That Sections 63 and 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 299 of the 124th General Assembly, be amended to read as follows:

**" Sec. 63. JFS DEPARTMENT OF JOB AND FAMILY SERVICES**

**General Revenue Fund**

|             |   |                |                |
|-------------|---|----------------|----------------|
| GRF 600-100 | Personal Services                       |                |                |
|             | State                                   | \$ 56,614,143  | \$ 58,715,838  |
|             | Federal                                 | \$ 18,645,558  | \$ 19,317,882  |
|             | Personal Services Total                 | \$ 75,259,701  | \$ 78,033,720  |
| GRF 600-200 | Maintenance                             |                |                |
|             | State                                   | \$ 30,439,164  | \$ 24,320,541  |
|             | Federal                                 | \$ 7,295,237   | \$ 5,828,810   |
|             | Maintenance Total                       | \$ 37,734,401  | \$ 30,149,351  |
| GRF 600-300 | Equipment                               |                |                |
|             | State                                   | \$ 5,469,830   | \$ 979,504     |
|             | Federal                                 | \$ 179,026     | \$ 32,059      |
|             | Equipment Total                         | \$ 5,648,856   | \$ 1,011,563   |
| GRF 600-402 | Electronic Benefits Transfer (EBT)      |                |                |
|             | State                                   | \$ 7,551,305   | \$ 7,715,079   |
|             | Federal                                 | \$ 7,551,305   | \$ 7,715,079   |
|             | EBT Total                               | \$ 15,102,610  | \$ 15,430,158  |
| GRF 600-410 | TANF State                              | \$ 268,636,561 | \$ 268,619,061 |
| GRF 600-413 | Day Care Match/Maintenance of Effort    | \$ 84,120,606  | \$ 84,120,606  |
| GRF 600-416 | Computer Projects                       |                |                |
|             | State                                   | \$ 137,583,171 | \$ 142,908,736 |
|             | Federal                                 | \$ 32,665,206  | \$ 34,770,353  |
|             | Computer Projects Total                 | \$ 170,248,377 | \$ 177,679,089 |
| GRF 600-420 | Child Support Administration            | \$ 7,919,511   | \$ 7,885,309   |
| GRF 600-426 | Children's Health Insurance Plan (CHIP) |                |                |
|             | State                                   | \$ 13,571,338  | \$ 15,770,373  |

|   |   |                  |                               |
|---|---|------------------|-------------------------------|
|   | Federal                                     | \$ 33,535,007    | \$ 38,968,860                 |
|   | CHIP Total                                  | \$ 47,106,345    | \$ 54,739,233                 |
| GRF 600-427                               | Child and Family Services Activities        | \$ 7,189,086     | \$ 7,000,427                  |
| GRF 600-435                               | Unemployment Compensation Review Commission | \$ 3,759,151     | \$ 3,785,380                  |
| GRF 600-436                               | Medicaid Systems Enhancements               | \$ 4,445,384     | \$ 1,853,611                  |
| GRF 600-502                               | Child Support Match                         | \$ 17,383,992    | \$ 16,814,103                 |
| GRF 600-504                               | Non-TANF County Administration              | \$ 70,554,373    | \$ 68,697,679                 |
| GRF 600-511                               | Disability Assistance/Other Assistance      | \$ 84,662,017    | \$ 98,152,408                 |
| GRF 600-512                               | Non-TANF Emergency Assistance               | \$ 1,079,000     | \$ 1,079,000                  |
| GRF 600-525                               | Health Care/Medicaid                        |                  |                               |
|   | State                                       | \$ 2,908,181,745 | \$ 3,112,834,875              |
|   | Federal                                     | \$ 4,174,579,446 | \$ 4,460,972,607              |
|   | Health Care Total                           | \$ 7,082,761,191 | \$ 7,573,807,482              |
| GRF 600-527                               | Child Protective Services                   | \$ 59,592,059    | \$ 64,047,479                 |
| GRF 600-528                               | Adoption Services                           |                  |                               |
|   | State                                       | \$ 33,085,023    | \$ 37,697,562                 |
|   | Federal                                     | \$ 32,158,564    | \$ 36,641,941                 |
|   | Adoption Services Total                     | \$ 65,243,587    | \$ 74,339,503                 |
| GRF 600-534                               | Adult Protective Services                   | \$ 2,850,975     | \$ 2,775,950                  |
| GRF 600-552                               | County Social Services                      | \$ 11,354,550    | \$ 11,055,746                 |
| TOTAL GRF General Revenue Fund            |   |                  |                               |
|   | State                                       | \$ 3,816,042,984 | \$ 4,036,829,267              |
|   | Federal                                     | \$ 4,306,609,349 | \$ 4,604,247,591              |
|   | GRF Total                                   | \$ 8,122,652,333 | \$ 8,641,076,858              |
| <b>General Services Fund Group</b>        |   |                  |                               |
| 4A8 600-658                               | Child Support Collections                   | \$ 42,389,027    | \$ 42,389,027                 |
| 4R4 600-665                               | BCII Service Fees                           | \$ 124,522       | \$ 136,974                    |
| 5C9 600-671                               | Medicaid Program Support                    | \$ 50,846,239    | \$ 59,226,893                 |
| 5R1 600-677                               | County Computers                            | \$ 5,000,000     | \$ 5,000,000                  |
| 613 600-645                               | Training Activities                         | \$ 1,462,626     | \$ 1,157,525                  |
| TOTAL GSF General Services Fund Group     |   | \$ 99,822,414    | \$ 107,910,419                |
| <b>Federal Special Revenue Fund Group</b> |   |                  |                               |
| 3A2 600-641                               | Emergency Food Distribution                 | \$ 2,018,844     | \$ 2,018,844                  |
| 3D3 600-648                               | Children's Trust Fund Federal               | \$ 2,040,524     | \$ 2,040,524                  |
| 3F0 600-623                               | Health Care Federal                         | \$ 260,504,926   | \$ 281,562,040<br>321,924,490 |
| 3F0 600-650                               | Hospital Care Assurance Match               | \$ 320,551,643   | \$ 332,807,785                |
| 3G5 600-655                               | Interagency Reimbursement                   | \$ 852,461,818   | \$ 860,986,436                |
| 3G9 600-657                               | Special Activities Self Sufficiency         | \$ 522,500       | \$ 190,000                    |
| 3H7 600-617                               | Day Care Federal                            | \$ 299,156,430   | \$ 337,848,130                |
| 3N0 600-628                               | IV-E Foster Care Maintenance                | \$ 152,981,760   | \$ 173,963,142                |
| 3S5 600-622                               | Child Support Projects                      | \$ 534,050       | \$ 534,050                    |
| 3V0 600-688                               | Workforce Investment Act                    | \$ 128,476,093   | \$ 128,476,093                |
| 3V4 600-678                               | Federal Unemployment                        | \$ 74,025,525    | \$ 74,025,525                 |

| Programs                                     |   |                  |                         |  |                      |
|--|---|------------------|-------------------------|--|----------------------|
| 3V4 600-679                                  | Unemployment Compensation Review Commission - Federal | \$ 2,286,421     | \$ 2,286,421            |  | <u>125,025,525</u>   |
| 3V6 600-689                                  | TANF Block Grant                                      | \$ 654,410,661   | \$ 677,098,311          |  |                      |
| 3V6 600-690                                  | Wellness  | \$ 14,337,515    | \$ 14,337,515           |  |                      |
| 316 600-602                                  | State and Local Training                              | \$ 10,166,587    | \$ 10,325,460           |  |                      |
| 327 600-606                                  | Child Welfare   | \$ 34,594,191    | \$ 34,592,977           |  |                      |
| 331 600-686                                  | Federal Operating                                     | \$ 41,600,896    | \$ 41,640,897           |  |                      |
| 365 600-681                                  | JOB Training Program                                  | \$ 25,000,000    | \$ 5,469,259            |  |                      |
| 384 600-610                                  | Food Stamps and State Administration                  | \$ 160,371,358   | \$ 161,716,857          |  |                      |
| 385 600-614                                  | Refugee Services                                      | \$ 4,388,503     | \$ 4,559,632            |  |                      |
| 395 600-616                                  | Special Activities/Child and Family Services          | \$ 9,491,000     | \$ 9,491,000            |  |                      |
| 396 600-620                                  | Social Services Block Grant                           | \$ 51,195,100    | \$ 51,297,478           |  |                      |
| 397 600-626                                  | Child Support   | \$ 248,001,590   | \$ 247,353,041          |  |                      |
| 398 600-627                                  | Adoption Maintenance/ Administration                  | \$ 277,806,175   | \$ 341,298,661          |  |                      |
| TOTAL FED Federal Special Revenue Fund Group |   | \$ 3,626,924,110 | \$ <u>3,795,920,078</u> |  | <u>3,887,282,528</u> |
| State Special Revenue Fund Group             |   |                  |                         |  |                      |
| 198 600-647                                  | Children's Trust Fund                                 | \$ 4,368,785     | \$ 4,379,333            |  |                      |
| 3W3 600-695                                  | Adult Protective Services                             | \$ 120,227       | \$                      |  |                      |
| 3W3 600-696                                  | Non-TANF Adult Assistance                             | \$ 1,000,000     | \$                      |  |                      |
| 3W8 600-638                                  | Hippy Program   | \$ 62,500        | \$                      |  |                      |
| 3W9 600-640                                  | Adoption Connection                                   | \$ 50,000        | \$                      |  |                      |
| 4A9 600-607                                  | Unemployment Compensation Admin Fund                  | \$ 9,420,000     | \$ 9,420,000            |  |                      |
| 4E3 600-605                                  | Nursing Home Assessments                              | \$ 95,511        | \$ 95,511               |  |                      |
| 4E7 600-604                                  | Child and Family Services Collections                 | \$ 145,805       | \$ 149,450              |  |                      |
| 4F1 600-609                                  | Foundation Grants/Child and Family Services           | \$ 116,400       | \$ 119,310              |  |                      |
| 4J5 600-613                                  | Nursing Facility Bed Assessments                      | \$ 31,179,798    | \$ 31,279,798           |  |                      |
| 4J5 600-618                                  | Residential State Supplement Payments                 | \$ 15,700,000    | \$ 15,700,000           |  |                      |
| 4K1 600-621                                  | ICF/MR Bed Assessments                                | \$ 21,604,331    | \$ 22,036,418           |  |                      |
| 4R3 600-687                                  | Banking Fees  | \$ 592,937       | \$ 592,937              |  |                      |
| 4V2 600-612                                  | Child Support Activities                              | \$ 124,993       | \$ 124,993              |  |                      |
| 4Z1 600-625                                  | HealthCare Compliance                                 | \$ 10,000,000    | \$ 10,000,000           |  |                      |
| 5A5 600-685                                  | Unemployment Benefit Automation                       | \$ 19,607,027    | \$ 13,555,667           |  |                      |
| 5E6 600-634                                  | State Option Food Stamps                              | \$ 6,000,000     | \$ 6,000,000            |  |                      |
| 5P4 600-691                                  | TANF Child Welfare                                    | \$ 7,500,000     | \$ 7,500,000            |  |                      |
| 5P5 600-692                                  | Health Care Services                                  | \$ 223,847,498   | \$ 255,386,713          |  |                      |
| 5R2 600-608                                  | Medicaid-Nursing Facilities                           | \$ 59,462,415    | \$ <u>79,283,220</u>    |  | <u>105,136,444</u>   |
| <u>5U3 600-654</u>                           | <u>Health Care Services Administration</u>            | \$ 0             | \$ <u>3,419,405</u>     |  |                      |
| 651 600-649                                  | Hospital Care Assurance Program Fund                  | \$ 222,480,109   | \$ 233,384,431          |  |                      |

|  |         |                               |                   |               |
|--|---------|-------------------------------|-------------------|---------------|
| TOTAL SSR State Special Revenue                  |         |                               |                   |               |
| Fund Group                                       |         | \$ 633,478,336                | \$ 690,240,508    |               |
| <b>Agency Fund Group</b>                         |         |                               |                   |               |
| 192  | 600-646 | Support Intercept - Federal   | \$ 80,000,000     | \$ 82,000,000 |
| 5B6  | 600-601 | Food Stamp Intercept          | \$ 5,283,920      | \$ 5,283,920  |
| 583  | 600-642 | Support Intercept - State     | \$ 20,162,335     | \$ 20,565,582 |
| TOTAL AGY Agency Fund Group                      |         | \$ 105,446,255                | \$ 107,849,502    |               |
| <b>Holding Account Redistribution Fund Group</b> |         |                               |                   |               |
| R12  | 600-643 | Refunds and Audit Settlements | \$ 200,000        | \$ 200,000    |
| R13  | 600-644 | Forgery Collections           | 700,000           | 700,000       |
| TOTAL 090 Holding Account Redistribution         |         | \$ 900,000                    | \$ 900,000        |               |
| Fund Group                                       |         |                               |                   |               |
| TOTAL ALL BUDGET FUND GROUPS                     |         | \$ 12,589,223,448             | \$ 13,343,897,365 |               |
|  |         |                               |                   |               |
| <u>13,464,532,444</u>                            |         |                               |                   |               |

### Sec. 63.37. NURSING FACILITY STABILIZATION FUND

(A) As used in this section:

(1) "Inpatient days" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code.

(2) "Medicaid day" means all days during which a resident who is a Medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days.

(B) The Department of Job and Family Services shall use money in the Nursing Facility Stabilization Fund created under section 3721.56 of the Revised Code to do all of the following:

(1) Make payments to nursing facilities under sections 5111.20 to 5111.32 of the Revised Code;

(2) Beginning with payments made to nursing facilities in August 2001, make payments to each nursing facility for each Medicaid day in fiscal ~~years~~ ~~year~~ 2002 and 2003 in an amount equal to sixty-nine and seven-tenths per cent of the franchise permit fee the nursing facility pays under section 3721.53 of the Revised Code for the fiscal year the department makes the payment divided by the nursing facility's inpatient days for the calendar year preceding the calendar year in which that fiscal year begins;

(3) Beginning with payments made to nursing facilities in August 2002, make payments to each nursing facility for each Medicaid day in fiscal years 2003, 2004, and 2005 in an amount equal to seventy-six and seventy-four-hundredths per cent of the franchise permit fee the nursing facility pays under section 3721.53 of the Revised Code for the fiscal year

the department makes the payment divided by the nursing facility's inpatient days for the calendar year preceding the calendar year in which that fiscal year begins:

(4) Beginning with payments made to nursing facilities in August 2001, make payments to each nursing facility for fiscal ~~years~~ ~~year~~ 2002 and 2003 in an amount equal to one dollar and fifty cents per Medicaid day for the purpose of enhancing quality of care;

(5) Beginning with payments made to nursing facilities in August 2002, make payments to each nursing facility for fiscal years 2003, 2004, and 2005 in an amount equal to two dollars and twenty-five cents per Medicaid day for the purpose of enhancing quality of care.

(C) Any money remaining in the Nursing Facility Stabilization Fund after payments specified in division (B) of this section are made for fiscal years 2002 and, 2003, 2004, and 2005 shall be retained in the fund. Any interest or other investment proceeds earned on money in the fund shall be credited to the fund and used to make payments in accordance with division (B) of this section.

(D) Notwithstanding division (N) of section 5111.20 of the Revised Code, the Department of Job and Family Services, in making Medicaid payments to a nursing facility under sections 5111.20 to 5111.32 of the Revised Code, shall exclude do both of the following:

(1) Exclude from a nursing facility's other protected costs the cost of sixty-nine and seven-tenths per cent of the franchise permit fee that the nursing facility pays under section 3721.53 of the Revised Code for fiscal ~~years~~ ~~year~~ 2002 and 2003 if the nursing facility receives payments under division (B)(2) of this section for sixty-nine and seven-tenths per cent of those franchise permit fees;

(2) Exclude from a nursing facility's other protected costs the cost of seventy-six and seventy-four-hundredths per cent of the franchise permit fee that the nursing facility pays under section 3721.53 of the Revised Code for fiscal years 2003, 2004, and 2005 if the nursing facility receives payments under division (B)(2) of this section for seventy-six and seventy-four-hundredths per cent of those franchise permit fees.

(E) The limitation of Section 230 of Am. Sub. H.B. 94 of the 124th General Assembly is not applicable to the amendments made by this act to this section."

SECTION 15. That existing Sections 63 and 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 299 of the 124th General Assembly, are hereby repealed.

SECTION 16. That Section 29 of Am. Sub. H.B. 405 of the 124th General Assembly be amended to read as follows:

**" Sec. 29. BUDGET STABILIZATION FUND TRANSFERS**

**(A)** Notwithstanding section 131.43 and division (D) of section 127.14 of the Revised Code, the Director of Budget and Management may, with Controlling Board approval, transfer up to \$248 million from the Budget Stabilization Fund to the General Revenue Fund during the 2002-2003 biennium to help ensure that the available revenue receipts and balances in the General Revenue Fund are not less than the appropriations for each fiscal year.

**(B)** Notwithstanding section 131.43 and division (D) of section 127.14 of the Revised Code, the Director of Budget and Management shall transfer, not later than 30 days after the effective date of this section, \$8.0 million from the Budget Stabilization Fund to the General Revenue Fund. ~~These funds~~ Of the amount transferred, \$2.0 million shall be used for emergency purposes, to include, but not be limited to, the Department of Health and Department of Agriculture for anthrax and bioterrorism testing, the Adjutant General for costs associated with the deployment of troops, armory maintenance, equipment costs and capital needs, the Department of Public Safety, security, and other emergency purpose expenses. These amounts are hereby appropriated for General Revenue Fund appropriation line items established by the Director of Budget and Management.

Prior to utilizing these funds, the appropriate agency must receive the approval of the Controlling Board. Any of these funds unspent in fiscal year 2002 shall be transferred to fiscal year 2003 by the Director of Budget and Management for the same purpose as in fiscal year 2002.

~~The~~ Of the \$2.0 million transferred for emergency purposes as specified in this division, the unobligated and unencumbered balance of these funds as of June 30, 2003, shall be transferred back to the Budget Stabilization Fund."

SECTION 17. That existing Section 29 of Am. Sub. H.B. 405 of the 124th General Assembly is hereby repealed.

SECTION 18. That Section 31 of Am. Sub. H.B. 405 of the 124th General Assembly is hereby repealed. This repeal is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d, the repeal goes

nto immediate effect.

**SECTION 19.** In addition to any amounts that have been authorized for transfer from the Budget Stabilization Fund to the General Revenue Fund in fiscal year 2002, there is hereby appropriated in fiscal year 2002 an amount deemed necessary by the Director of Budget and Management, from the Budget Stabilization Fund (Fund 013), to appropriation item 001-601, GRF Shortfall Contingency, for the purpose of overcoming the current shortfall of revenues to the General Revenue Fund. The Director shall make disbursements, using an intrastate transfer voucher, from the foregoing appropriation to the General Revenue Fund, of such amounts as are necessary to ensure that the unobligated and unencumbered balance in the General Revenue Fund at the end of fiscal year 2002 is not more than \$100,000,000.

In addition to any amounts that have been authorized for transfer from the Budget Stabilization Fund to the General Revenue Fund in fiscal year 2003, there is hereby appropriated in fiscal year 2003 an amount deemed necessary by the Director of Budget and Management, from the Budget Stabilization Fund (Fund 013) to appropriation item 001-601, GRF Shortfall Contingency. The Director shall make disbursements, using an intrastate transfer voucher, from the foregoing appropriation to the General Revenue Fund, of such amounts as are necessary to ensure that the unobligated and unencumbered balance in the General Revenue Fund at the end of fiscal year 2003 is not more than \$100,000,000.

**SECTION 20. ADDITIONAL TRANSFERS TO THE GENERAL REVENUE FUND**

Notwithstanding any other provision of law to the contrary, including Am. Sub. H.B. 94 and Am. Sub. H.B. 405 both of the 124th General Assembly, as subsequently amended, during fiscal years 2002 and 2003, the Director of Budget and Management is hereby authorized to make such transfers of cash to the General Revenue Fund from funds created in uncodified law or in Title 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45, 47, 49, 51, 53, or 55, Chapter 5701., 5703., 5705., 5707., 5709., 5711., 5713., 5715., 5717., 5719., 5721., 5723., 5725., 5727., 5729., 5731., 5733., 5735., 5737., 5739., 5741., 5743., 5745., 5749., 5751., or 5753., or Title 59, 61, or 63 of the Revised Code that do not consist of federal funds or of funds from which transfers for general purposes are constitutionally restricted, as are necessary to ensure that

nditures from the General Revenue Fund do not exceed amounts credited to it. The Director shall issue any directives to state agencies that are necessary to accomplish the purposes of this section.

SECTION 21. On or before January 1, 2003, the Director of Budget and Management shall reduce fiscal year 2003 General Revenue Fund appropriations for the Department of Education by \$30,000,000. The following GRF appropriation items are exempt from the reduction: 200-406, Head Start; 200-500, School Finance Equity; 200-501, Base Cost Funding; 200-502, Pupil Transportation; 200-511, Auxillary Services; 200-520, Disadvantaged Pupil Impact Aid; 200-521, Gifted Pupil Program; 200-525, Parity Aid; 200-532, Nonpublic Administration Cost Reimbursement; 200-534, Desegregation Costs; 200-540, Special Education Enhancements; 200-545, Career-Technical Education Enhancements; 200-546, Charge-Off Supplement; 200-553, County MR/DD Boards Transportation Operating; 200-901, Property Tax Allocation – Education; and 200-906, Tangible Tax Exemption – Education.

SECTION 22. Not later than July 10, 2002, the Director of Budget and Management shall reduce fiscal year 2003 General Revenue Fund appropriations made to the Department of Rehabilitation and Correction appropriation item 501-321, Institutional Operations, by \$10,000,000. This appropriations reduction is in addition to any other General Revenue Fund appropriations reductions made to the Department of Rehabilitation and Correction appropriations in fiscal year 2003, including but not limited to any General Revenue Fund appropriations reductions imposed by executive order.

SECTION 23. There is hereby appropriated out of funds made available to the state under Section 903(d) of the Social Security Act, as amended, the sum of \$51,000,000 to be used under the direction of the Department of Job and Family Services to pay for administrative activities for the Unemployment Insurance Program, employment services, and other allowable expenditures under Section 903(d) of the Social Security Act, as amended.

The amounts obligated pursuant to this section shall not exceed at any time the amount by which the aggregate of the amounts transferred to the account of the state pursuant to Section 903(d) of the Social Security Act, as

amended, exceeds the aggregate of the amounts obligated for administration and paid out for benefits and required by law to be charged against the amounts transferred to the account of the state.

Of the appropriation item 600-678, Federal Unemployment Programs, in Section 63 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended, up to \$18,000,000 in fiscal year 2003 shall be used by the Department of Job and Family Services to reimburse the General Revenue Fund, through state intrastate transfer vouchers, for expenses incurred on or after the date of enactment of this section from the General Revenue Fund for the aforementioned programs as reported to the federal government as allowable expenditures.

**SECTION 24.** There is hereby created the Economic Development Study Committee consisting of five members appointed by the President of the Senate and four members appointed by the Speaker of the House of Representatives. Of the members appointed by the President, one shall represent retail merchants, one the Ohio Chamber of Commerce, one the Ohio Manufacturers Association, one the Business Roundtable, and one the Interuniversity Council. Of the members appointed by the Speaker, one shall represent the Ohio Farm Bureau Federation, one the labor unions of the state, one the Ohio Association of Community Colleges, and one the National Federation of Independent Businesses. At the first meeting of the committee, the members shall elect a chairperson and vice chairperson. Members shall serve without compensation. The committee shall study the needs of the economy of the state and shall submit a written report to the President, the Speaker, and the minority leaders of the House and Senate not later than January 31, 2003. The report shall address the challenges of the ongoing revenue shortfall of the state and recommend measures to increase investment in high technology in the state, encourage economic growth and the creation of jobs, improve primary, secondary, and higher education, and achieve other goals important to the vitality of the state's economy. Upon submitting its report, the committee shall cease to exist.

**SECTION 25. (A)** The aggregate amount of appropriations from the General Revenue Fund for fiscal years 2004 and 2005 shall not exceed the aggregate amount of spending from the General Revenue Fund for fiscal years 2002 and 2003, other than appropriations and spending for the following purposes:

- (1) Higher education;

- (2) Primary and secondary education;
- (3) Medicaid;
- (4) Debt service;
- (5) Property tax relief.

(B) There is hereby created the Budget Study Committee consisting of five members appointed from the House of Representatives and five members appointed from the Senate. The members of the House of Representatives shall be appointed by the Speaker of the House of Representatives and the members of the Senate shall be appointed by the President of the Senate. Of the five members from each house, two shall be of the minority party. All appointments shall be made by November 6, 2002. The Committee shall conduct its first meeting not later than November 15, 2002. At the first meeting, the Committee shall select a chairperson and vice chairperson.

The Committee shall conduct a comprehensive study of the five areas of state spending set forth in divisions (A)(1) to (5) of this section for the purpose of making recommendations that, if implemented, will improve efficiency and maintain or exceed current levels of service in those areas. The Committee shall issue a report to the General Assembly with its recommendations not later than March 31, 2003.

SECTION 26. Notwithstanding section 3702.68 of the Revised Code, the Director of Health may accept for review under section 3702.52 of the Revised Code an application for a certificate of need approving the relocation of up to twenty-four existing nursing home beds in Jackson County to Gallia County.

SECTION 27. The Director of Job and Family Services, on or before October 1, 2002, shall establish the Mahoning Valley Education and Training Institute at Youngstown State University. The purpose of the program shall be for retraining of existing workers and providing the education and training for new entrants into the regional labor market.

SECTION 28. For any federal funds that are received under "The No Child Left Behind Act (PL107-110)" that the Department of Education has discretionary authority to spend, the Department shall submit a spending plan to the Controlling Board. The Department shall not expend any of these funds before obtaining approval of the spending plan by the Controlling

Board.

SECTION 29. (A) The Governor is hereby authorized to execute a deed in the name of the state conveying to Summit County and its successors and assigns all of the state's right, title, and interest in the following described real estate:

Boston Mills Organizational Maintenance Shop and other related facilities, Volume 1540, Pages 411 & 412 and 413-415, Summit County Deed Records. And being parcel number 06-00493 of the Summit County Auditor's Records.

Part A

Situated in the Township of Boston, County of Summit, and State of Ohio; more particularly described as follows: Being a part of Lot 2, Tract 1, in said Township, beginning at a southwest corner of 80.45 acres of land, deeded by George Kellogg to F.W. Kellogg March 9th, 1872, in the center of the Brewery Road, so-called, at a stake in the line between the north and south half of said Lot 2, and which point is southwesterly along the center line of the Brewery Road 28.22 1/2 chains from the north line of Lot 2, Tract No. 1, Boston Township; thence northeasterly along the center of said Road as now traveled, 26.33 1/2 chains to a stake at the center of the Culvert; thence south 26 degrees east 3 chains to a stake; thence southwesterly to a point in the division line between the north and south half of said Lot 2, 11.25 chains distant from the first mentioned stake in the center of the Brewery Road; thence north 89 3/4 degrees west along said division line 11 chains and 25 links to the place of beginning, containing 10 acres of land, be the same more or less, but subject to all legal highways.

Being the same piece of property conveyed by Mary C. & W.H. Smith to Harry M. Farnsworth as shown by recorded deed in Volume 328, page 579 of Summit County Records being subsequently conveyed by said Harry M. Farnsworth and wife to The American Agricultural Chemical Company (of Connecticut) by deed dated November 18th, 1905, and recorded in Summit County Records in Volume 627, Page 432, and being subsequently conveyed by The American Agricultural Chemical Company (of Connecticut) to The American Agricultural Chemical Company (of Delaware) by deed dated June 30th, 1930, and recorded in Summit County Records in Volume 1352, Pages 420-421, and finally conveyed to the State of Ohio by Harvey J. Webster et ux by deed dated July 1, 1933.

Part B

Situated in the Township of Boston, County of Summit, and State of Ohio: and being part of Original Lot No. 2, Tract 1, in said Township and

being further described as follows:

Beginning in the center line of Brewery Road at its intersection with the northerly line of Grantor's lands, said beginning point being distant southwesterly along the center line of Brewery Road 28.22 1/2 chains from the North line of said Lot 2, said beginning point being also the southwest corner of 80.45 acres of lands deeded by George Kellogg to F.W. Kellogg, March 9, 1872.

Thence South 89 degrees 45'00" East along the Northerly line of Grantor's lands, said Northerly line being the southerly line of lands conveyed to F.W. Kellogg as aforesaid a distance of 900 feet to a point.

Thence South 12 degrees 37'30" West a distance of 700 feet to a point.

Thence North 89 degrees 45'00" West along a line parallel with the first described line a distance of 650 feet to a point.

Thence northwesterly along a line that intersects the center line of Brewery Road at a point distance Southwesterly 400 ft. from the intersection of said center line with the Northerly line of Grantor's land as aforesaid.

Thence Northeasterly along the center line of Brewery Road 400 feet to the place of beginning containing 15.257 acres of land be the same more or less but subject to all legal highways, and being transferred by a deed from Gilbert Cassity et al to the State of Ohio, by a deed dated June 12th, 1933.

LESS THE FOLLOWING DESCRIBED PARCEL, GIVEN BY  
"DEPARTMENTAL TRANSFER OF STATE-OWNED LANDS" FROM  
THE ADJUTANT GENERAL'S DEPARTMENT TO THE OHIO  
DEPARTMENT OF HIGHWAYS, ON DECEMBER 1, 1966.

Situated in Boston Township, Summit County, State of Ohio, Lot 2, Town 4-North, Range 11 West, and bounded and described as follows:

Being a parcel of land lying on the left and right sides of the centerline of a survey made by the Department of Highways, and recorded in Book 68, Pages 5-14, of the records of Summit County and being located within the following described points in the boundary thereof:

Beginning at the intersection of the centerline tangent of Riverview Road (County Highway No. 9) with the north line of said Lot 2; said intersection being at right angles to and 599.99 feet left of Station 425 plus 95.97 on the centerline survey above referred to; thence along the centerline tangents of Riverview Road by the following bearings and distances: South 17°37'18" East a distance of 349.59 feet to an angle point; South 48°49'23" East a distance of 185.40 feet to an angle point on the proposed limited access line; thence along said limited access line by the following bearings and distances; South 54°14'22" West a distance of 179.03 feet to an angle point; North 35°45'38" West a distance of 232.83 feet to an angle point;

South 54°14'22" West a distance of 650.00 feet to an angle point; South 8°48'58" West a distance of 140.09 feet to an angle point; South 55°21'44" West a distance of 926.04 feet to the true place of beginning, said point of beginning being an angle break in the grantor's easterly property line on a radial line to an 173.44 feet left of Station 406 plus 50.07 on the centerline survey; thence South 11°42'11" West along the grantor's easterly property line a distance of 534.33 feet to an angle point on the proposed southerly limited access line, and passing over the centerline survey at a distance of 224.33 feet, the intersection of which is at Station 405 plus 06.15 on the centerline survey; thence South 71°05'06" West along the limited access line, a distance of 515.23 feet to an angle point; thence along the grantor's property line by the following bearings and distances: South 89°22'52" West a distance of 193.53 feet to an angle point; North 42°26'06" West a distance of 368.80 feet to an angle point on the limited access line, and passing over the centerline survey at a distance of 141.65 feet the intersection of which is at Station 395 plus 89.03 on the centerline survey; thence along the limited access line by the following bearings and distances: North 70°22'18" East a distance of 388.57 feet to an angle point; North 60°57'09" East a distance of 590.51 feet to an angle point; North 88°56'05" East a distance of 156.00 feet to the true place of beginning and containing 390,674 square feet (8.969 acres) of land, more or less.

Station 425 plus 49.26 on the centerline survey (Proposed State Route 217) is Station 72 plus 99.30 on the centerline of right-of-way of Riverview Road (County Highway No. 9).

Description for the above parcel is based on a survey made by Bryan E. Moody, registered Surveyor No. 4936.

(B) Consideration for conveyance of the real estate described in division (A) of this section shall be the greater of seventy-five thousand dollars or the highest bid at the June 13, 2001, public auction that is not accepted by the Adjutant General.

(C) Upon payment of the purchase price, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate described in division (A) of this section. The deed shall state the consideration set forth in division (B) of this section. The deed shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to Summit County. Summit County shall present the deed for recording in the Office of the Summit County Recorder. Summit County shall pay the costs of the conveyance of the real estate described in division (A) of this section.

(D) The net proceeds of the conveyance of the real estate described in division (A) of this section shall be deposited pursuant to section 5911.10 of the Revised Code in the State Treasury to the credit of the Armory Improvements Fund within the Adjutant General's Department.

(E) This section expires two years after its effective date.

**SECTION 30.** The Ohio Public Facilities Commission, upon request by the Board of Regents, is hereby authorized to issue and sell, in accordance with Section 2n of Article VIII, Ohio Constitution, and sections 151.01 and 151.04 of the Revised Code, original obligations of the State of Ohio, in an aggregate principal amount not to exceed \$50,000,000. These obligations, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly, shall be issued and sold from time to time and in amounts necessary to ensure sufficient moneys to the credit of the Higher Education Improvement Fund (Fund 034) to pay costs charged to that fund associated with previously authorized capital facilities and the capital facilities in Section 34 of this act for state-supported and state-assisted institutions of higher education, as estimated by the Director of Budget and Management.

**SECTION 31.** All items in this section are hereby appropriated as designated out of moneys in the state treasury to the credit of the Higher Education Improvement Fund (Fund 034). All appropriations made in this section are for fiscal years 2003 and 2004. The appropriations made in this section are in addition to any other capital appropriations made for fiscal years 2003 and 2004.

Appropriations

**BOR BOARD OF REGENTS**

|  |           |                   |
|--|-----------|-------------------|
| Higher Education Improvement Fund                  |           |                   |
| 034 CAP-068 Third Frontier Project                 | \$        | 50,000,000        |
| Total 034 Higher Education Improvement Fund        | \$        | 50,000,000        |
| <b>TOTAL ALL BUDGET FUND GROUPS THIRD FRONTIER</b> | <b>\$</b> | <b>50,000,000</b> |
| <b>PROJECT</b>                                     |           |                   |

**THIRD FRONTIER PROJECT**

The foregoing appropriation item CAP-068, Third Frontier Project, shall be used to acquire, renovate, or construct facilities and purchase equipment for research programs technology development, product development, and commercialization programs at or involving state-supported and state-assisted institutions of higher education. The funds shall be used to make grants, awarded on a competitive basis, and shall be administered by

he Department of Development. Expenditure of these funds shall comply with Section 2n of Article VIII, Ohio Constitution, and sections 151.01 and 151.04 of the Revised Code for the period beginning July 1, 2002, and ending June 30, 2004.

The Department of Development shall develop guidelines relative to the application for and selection of projects funded from appropriation item CAP-068, Third Frontier Project. The guidelines shall be developed in consultation with the Board of Regents, the Governor's Science and Technology Advisor, and other interested parties at the discretion of the Department of Development. The Board of Regents and all state-assisted and state-supported institutions of higher education shall take all actions necessary to implement grants awarded by the Department of Development.

The foregoing capital appropriation item, CAP-068, Third Frontier Project, for which an appropriation is made from the Higher Education Improvement Fund (Fund 034) is determined to consist of capital improvements and capital facilities for state-supported and state-assisted institutions of higher education, and is designated for the capital facilities to which proceeds of obligations in the Higher Education Improvement Fund (Fund 034) are to be applied.

Within the limits set forth in this section, the Director of Budget and Management shall establish accounts indicating the source and amount of funds for each appropriation made in this section, and shall determine the form and manner in which appropriation accounts shall be maintained. Expenditures from appropriations contained in this section shall be accounted for as though made in the 2002-2004 biennial capital appropriations act of the 124th General Assembly.

The appropriations made in this section are subject to all provisions of the 2002-2004 biennial capital appropriations act of the 124th General Assembly that are generally applicable to such appropriations.

SECTION 32. (A) Notwithstanding section 183.02 of the Revised Code and in addition to any amounts that have been authorized for transfer from the Tobacco Master Settlement Agreement Fund (Fund 087) to the General Revenue Fund in fiscal year 2002, there is hereby appropriated in fiscal year 2002, \$180,000,000 from the Tobacco Master Settlement Agreement Fund (Fund 087) to appropriation item 001-602, GRF Revenue Supplement, for the purpose of overcoming the current shortfall of revenues to the General Revenue Fund. The Director shall make disbursements, using an intrastate transfer voucher, from the foregoing appropriation to the General Revenue Fund.

Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund in fiscal year 2002, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund to the Education Facilities Trust Fund (Fund N87) shall be reduced by the amount that is appropriated from the Tobacco Master Settlement Agreement Fund to appropriation item 001-602, GRF Revenue Supplement, in accordance with this section.

(B) Notwithstanding section 183.02 of the Revised Code and in addition to any amounts that have been authorized for transfer from the Tobacco Master Settlement Agreement Fund (Fund 087) to the General Revenue Fund in fiscal year 2003, there is hereby appropriated in fiscal year 2003, \$165,000,000 from the Tobacco Master Settlement Agreement Fund (Fund 087) to appropriation item 001-602, GRF Revenue Supplement, for the purpose of overcoming the current shortfall of revenues to the General Revenue Fund. The Director shall make disbursements, using an intrastate transfer voucher, from the foregoing appropriation to the General Revenue Fund.

Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund in fiscal year 2003, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund to the Education Facilities Trust Fund (Fund N87) shall be reduced by the amount that is appropriated from the Tobacco Master Settlement Agreement Fund to appropriation item 001-602, GRF Revenue Supplement, in accordance with this section.

**SECTION 33.** All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the School Building Program Assistance Fund (Fund 032), created under section 3318.25 of the Revised Code, derived from the proceeds of obligations heretofore and herein authorized to pay the cost of facilities for a system of common schools throughout the state for the period beginning July 1, 2002, and ending June 30, 2004. The appropriation shall be in addition to any other appropriation for this purpose.

**SCHOOL FACILITIES COMMISSION**

|   |    |             |
|---|----|-------------|
| CAP-770 School Building Program Assistance    | \$ | 345,000,000 |
| Total School Facilities Commission            | \$ | 345,000,000 |
| Total School Building Program Assistance Fund | \$ | 345,000,000 |

**SCHOOL BUILDING PROGRAM ASSISTANCE**

The foregoing appropriation item CAP-770, School Building Program Assistance, shall be used by the School Facilities Commission to provide funding to school districts that receive conditional approval from the Commission pursuant to Chapter 3318. of the Revised Code.

Expenditures from appropriations contained in this section may be accounted for as though made in the main capital appropriations act for the fiscal year 2003-2004 biennium enacted by the 124th General Assembly. The School Facilities Commission shall not commit any of the appropriations made in this section until after July 1, 2002.

**SECTION 34.** The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with the provisions of Section 2n of Article VIII, Ohio Constitution, and Chapter 151. and particularly sections 151.01 and 151.03 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$345,000,000 to pay the costs associated with previously authorized capital facilities and the capital facilities authorized in the immediately preceding section of this act for the School Building Assistance Program for the School Facilities Commission to distribute in accordance with their rules and guidelines pursuant to Chapter 3318. of the Revised Code.

**SECTION 35.** The amendment or enactment by this act of sections 5901.02, 5901.021, and 5901.03 of the Revised Code first applies to veterans service commission budget requests for the fiscal year beginning January 1, 2003. Notwithstanding section 5901.11 of the Revised Code to the contrary, if a budget request for that fiscal year exceeds either of the amounts set forth in section 5901.021 of the Revised Code as enacted by this act, the board of county commissioners may exercise the authority granted under that section with respect to such request regardless of when the budget request was submitted to the board.

**SECTION 36.** Sections 30, 31, 33, 34, and 35 of this act are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the sections take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the sections, the sections, unless rejected at the referendum, take effect at the earliest time permitted by law.

SECTION 37. Except as otherwise specifically provided in this act, the codified and uncodified sections of law amended or enacted in this act, and the items of law of which the codified and uncodified sections of law amended or enacted in this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d, the codified and uncodified sections of law amended or enacted in this act, and the items of law of which the codified and uncodified sections of law amended or enacted in this act are composed, except as otherwise specifically provided in this act, go into immediate effect when this act becomes law.

SECTION 38. The repeals by this act of sections 5126.16 and 5126.18 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the repeals go into immediate effect when this act becomes law.

SECTION 39. The repeals by this act of sections 5743.023 and 5743.322 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d, the repeals go into effect as prescribed in Section 3 of this act.

SECTION 40. Sections 173.06, 173.061, 173.062, 173.07, 173.071, 173.072, 5740.03, 5901.02, 5901.021, and 5901.03 of the Revised Code as amended or enacted by this act, and the items of law of which such sections as amended or enacted by this act are composed, are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, such sections as amended or enacted by this act, and the items of law of which such sections as amended or enacted by this act are composed, take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such section as amended or enacted by this act, or against any item of law of which any such section as amended or enacted by this act is composed, the section as amended or enacted, or item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 41. The amendment of sections 5112.01, 5112.06, 5112.07, and 5112.11 of the Revised Code is not intended to supersede the earlier repeal, with delayed effective date, of those sections.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_