

**As Passed by the Senate**

**125th General Assembly**

**Regular Session**

**2003-2004**

**Sub. H. B. No. 434**

**Representatives Calvert, Allen, Barrett, Beatty, D. Evans, Flowers, Hartnett,  
Hughes, Miller, T. Patton, Schneider, J. Stewart, Strahorn, Aslanides,  
Chandler, Collier, C. Evans, Otterman, Peterson, Schlichter, Setzer  
Senators Harris, Miller, Zurz**

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**A B I L L**

To amend sections 183.04 and 183.18 and to enact 1  
sections 3313.717 and 3314.16 of the Revised Code 2  
and to amend Section 3 of Sub. H.B. 262 of the 3  
125th General Assembly, to amend Sections 41 and 4  
41.09 of Am. Sub. H.B. 95 of the 125th General 5  
Assembly, to amend Section 41.13 of Am. Sub. H.B. 6  
95 of the 125th General Assembly, as subsequently 7  
amended, and to amend Section 99 of Am. Sub. H.B. 8  
95 of the 125th General Assembly, as amended by 9  
Sub. H.B. 262 of the 125th General Assembly, to 10  
provide for the distribution of money received by 11  
the state pursuant to the Tobacco Master 12  
Settlement Agreement by making operating and 13  
capital appropriations for the biennium beginning 14  
July 1, 2004, and ending June 30, 2006, and to 15  
provide authorization and conditions for the 16  
operation of state programs. 17

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 183.04 and 183.18 be amended and 18

sections 3313.717 and 3314.16 of the Revised Code be enacted to 19  
read as follows: 20

**Sec. 183.04.** There is hereby created the tobacco use 21  
prevention and control foundation, the general management of which 22  
is vested in a board of trustees of twenty-four members as 23  
follows: 24

(A) Eight members who are health professionals, health 25  
researchers, or representatives of health organizations. Two of 26  
these members shall be appointed by the governor, two by the 27  
speaker of the house of representatives, one by the minority 28  
leader of the house of representatives, two by the president of 29  
the senate, and one by the minority leader of the senate. 30

(B) Two members, one of whom has experience in financial 31  
planning and accounting and one of whom has experience in media 32  
and mass marketing, who shall be appointed by the governor; 33

(C) One member, who shall be appointed by the governor from a 34  
list of at least three individuals recommended by the American 35  
cancer society; 36

(D) One member, who shall be appointed by the governor from a 37  
list of at least three individuals recommended by the American 38  
heart association; 39

(E) One member, who shall be appointed by the governor from a 40  
list of at least three individuals recommended by the American 41  
lung association; 42

(F) One member, who shall be appointed by the governor from a 43  
list of at least three individuals recommended by the association 44  
of hospitals and health systems; 45

(G) One member, who shall be appointed by the governor from a 46  
list of at least three individuals recommended by the Ohio state 47

medical association;	48
(H) One member, who shall be appointed by the governor from a list of at least three individuals recommended by the association of Ohio health commissioners;	49 50 51
(I) One member, who shall be appointed by the governor from a list of at least three individuals recommended by the Ohio dental association;	52 53 54
(J) One nonvoting member, who shall be a member of the house of representatives of the political party of which the speaker of the house of representatives is a member and who shall be appointed by the speaker;	55 56 57 58
(K) One nonvoting member, who shall be a member of the house of representatives of the major political party of which the speaker of the house of representatives is not a member and who shall be appointed by the speaker;	59 60 61 62
(L) One nonvoting member, who shall be a member of the senate of the political party of which the president of the senate is a member and who shall be appointed by the president;	63 64 65
(M) One nonvoting member, who shall be a member of the senate of the major political party of which the president of the senate is not a member and who shall be appointed by the president;	66 67 68
(N) The director of health, <u>the</u> executive director of the commission on minority health, <u>or the executive director's designee</u> , and <u>the</u> attorney general, who shall serve as ex officio members.	69 70 71 72
The appointments of the governor shall be with the advice and consent of the senate.	73 74
Terms of office for the non-legislative members appointed by the governor, president, speaker, and minority leaders shall be for five years. The terms of legislative members shall be for the	75 76 77

biennial session of the general assembly in which they are 78  
appointed. Each member shall hold office from the date of 79  
appointment until the end of the term for which the member was 80  
appointed. Any member appointed to fill a vacancy occurring prior 81  
to the expiration of the term for which the member's predecessor 82  
was appointed shall hold office for the remainder of that term. 83  
Any member shall continue in office subsequent to the expiration 84  
date of the member's term until the member's successor takes 85  
office, or until a period of sixty days has elapsed, whichever 86  
occurs first. A vacancy in an unexpired term shall be filled in 87  
the same manner as the original appointment. The governor may 88  
remove any non-legislative member for malfeasance, misfeasance, or 89  
nonfeasance after a hearing in accordance with Chapter 119. of the 90  
Revised Code. 91

The members of the board shall serve without compensation but 92  
shall receive their reasonable and necessary expenses incurred in 93  
the conduct of foundation business. 94

Sections 101.82 to 101.87 of the Revised Code do not apply to 95  
the foundation. 96

**Sec. 183.18.** Ohio's public health priorities trust fund is 97  
hereby created in the state treasury. Money credited to the fund 98  
shall be used for the following purposes: 99

(A) Minority health programs, on which not less than 100  
twenty-five per cent of the annual appropriations from the trust 101  
fund shall be expended; 102

(B) Enforcing section 2927.02 of the Revised Code; 103

(C) Alcohol and drug abuse treatment and prevention programs, 104  
including programs for adult and juvenile offenders in state 105  
institutions and aftercare programs; 106

(D) A non-entitlement program funded through the department 107

of health to provide emergency assistance consisting of 108  
medication, oxygen, or both to seniors whose health has been 109  
adversely affected by tobacco use and whose income does not exceed 110  
one hundred per cent of the federal poverty guidelines, on which 111  
five per cent of the annual appropriations from the trust fund 112  
shall be expended. However, if federal funding becomes available 113  
for this purpose, the department shall utilize the federal funding 114  
and the appropriations from the trust fund shall be used for the 115  
other purposes authorized by this section. If the federal program 116  
requires seniors described by this division to pay a premium or 117  
copayment to obtain medication or oxygen, the director of health 118  
shall recommend to the general assembly whether this division's 119  
set-aside of five per cent of the appropriations from the trust 120  
fund should be used to pay such premiums or copayments. As used in 121  
this division, "federal poverty guidelines" has the same meaning 122  
as in section 5101.46 of the Revised Code. 123

(E) Partial reimbursement, on a county basis, of hospitals, 124  
free medical clinics, and similar organizations or programs that 125  
provide free, uncompensated care to the general public, and of 126  
counties that pay private entities to provide such care using 127  
revenue from a property tax levied at least in part for that 128  
purpose. 129

All investment earnings of the fund shall be credited to the 130  
fund. 131

Sec. 3313.717. (A) As used in this section, "automated 132  
external defibrillator" means a specialized defibrillator that is 133  
approved for use as a medical device by the United States food and 134  
drug administration for performing automated external 135  
defibrillation, as defined in section 2305.235 of the Revised 136  
Code. 137

(B) The board of education of each school district and the 138

administrative authority of each chartered nonpublic school may 139  
require the placement of an automated external defibrillator in 140  
each school under the control of the board or authority. If a 141  
board or authority requires the placement of an automated external 142  
defibrillator as provided in this section, the board or authority 143  
also shall require that a sufficient number of the staff persons 144  
assigned to each school under the control of the board or 145  
authority successfully complete an appropriate training course in 146  
the use of an automated external defibrillator as described in 147  
section 3701.85 of the Revised Code. 148

(C) In regard to the use of an automated external 149  
defibrillator that is placed in a school as specified in this 150  
section, and except in the case of willful or wanton misconduct or 151  
when there is no good faith attempt to activate an emergency 152  
medical services system in accordance with section 3701.85 of the 153  
Revised Code, no person shall be held liable in civil damages for 154  
injury, death, or loss to person or property, or held criminally 155  
liable, for performing automated external defibrillation in good 156  
faith, regardless of whether the person has obtained appropriate 157  
training on how to perform automated external defibrillation or 158  
successfully completed a course in cardiopulmonary resuscitation. 159

**Sec. 3314.16.** (A)(1) As used in this section, "automated 160  
external defibrillator" means a specialized defibrillator that is 161  
approved for use as a medical device by the United States food and 162  
drug administration for performing automated external 163  
defibrillation, as defined in section 2305.235 of the Revised 164  
Code. 165

(2) This section does not apply to an internet- or 166  
computer-based community school. 167

(B) The governing board of a community school established 168  
under this chapter may require the placement of an automated 169

external defibrillator in each school under the control of the 170  
governing authority. If a governing authority requires the 171  
placement of an automated external defibrillator as provided in 172  
this section, the governing authority also shall require that a 173  
sufficient number of the staff persons assigned to each school 174  
under the control of the governing authority successfully complete 175  
an appropriate training course in the use of an automated external 176  
defibrillator as described in section 3701.85 of the Revised Code. 177

(C) In regard to the use of an automated external 178  
defibrillator that is placed in a community school as specified in 179  
this section, and except in the case of willful or wanton 180  
misconduct or when there is no good faith attempt to activate an 181  
emergency medical services system in accordance with section 182  
3701.85 of the Revised Code, no person shall be held liable in 183  
civil damages for injury, death, or loss to person or property, or 184  
held criminally liable, for performing automated external 185  
defibrillation in good faith, regardless of whether the person has 186  
obtained appropriate training on how to perform automated external 187  
defibrillation or successfully completed a course in 188  
cardiopulmonary resuscitation. 189

**Section 2.** That existing sections 183.04 and 183.18 of the 190  
Revised Code are hereby repealed. 191

**Section 3.** That Sections 41 and 41.09 of Am. Sub. H.B. 95 of 192  
the 125th General Assembly be amended to read as follows: 193

**Sec. 41.** EDU DEPARTMENT OF EDUCATION 194

General Revenue Fund 195

GRF 200-100 Personal Services \$ 12,211,314 \$ 12,211,314 196

GRF 200-320 Maintenance and \$ 5,066,249 \$ 5,066,249 197

Equipment

GRF 200-408	Public Preschool	\$	19,018,551	\$	19,018,551	198
GRF 200-410	Professional Development	\$	29,490,073	\$	29,765,073	199
GRF 200-411	Family and Children First	\$	3,324,750	\$	3,324,750	200
GRF 200-420	Technical Systems Development	\$	5,703,750	\$	5,703,750	201
GRF 200-421	Alternative Education Programs	\$	16,135,547	\$	16,135,547	202
GRF 200-422	School Management Assistance	\$	1,778,000	\$	1,778,000	203
GRF 200-424	Policy Analysis	\$	592,220	\$	592,220	204
GRF 200-425	Tech Prep Consortia Support	\$	2,133,213	\$	2,133,213	205
GRF 200-426	Ohio Educational Computer Network	\$	34,331,741	\$	34,331,741	206
GRF 200-427	Academic Standards	\$	9,000,592	\$	9,000,592	207
GRF 200-431	School Improvement Initiatives	\$	10,905,625	\$	10,905,625	208
GRF 200-433	Reading/Writing/Math Improvement	\$	20,488,264	\$	20,488,264	209
GRF 200-437	Student Assessment	\$	41,353,391	\$	45,953,391	210
GRF 200-439	Accountability/Report Cards	\$	4,087,500	\$	4,087,500	211
GRF 200-441	American Sign Language	\$	207,717	\$	207,717	212
GRF 200-442	Child Care Licensing	\$	1,385,633	\$	1,385,633	213
GRF 200-445	OhioReads Admin/Volunteer Support	\$	4,500,000	\$	4,500,000	214
GRF 200-446	Education Management Information System	\$	16,928,969	\$	16,928,969	215
GRF 200-447	GED Testing/Adult High School	\$	1,829,106	\$	1,829,106	216

GRF 200-448	Educator Preparation	\$	24,375	\$	24,375	217
GRF 200-449	Head Start/Head Start Plus Start Up	\$	11,000,000	\$	5,000,000	218
GRF 200-452	Teaching Success Commission Initiatives	\$	1,650,000	\$	1,650,000	219
GRF 200-455	Community Schools	\$	4,231,842	\$	4,231,842	220
GRF 200-500	School Finance Equity	\$	14,039,495	\$	7,819,443	221
GRF 200-501	Base Cost Funding	\$	<del>4,391,033,023</del> <u>4,471,033,023</u>	\$	4,409,958,425	222
GRF 200-502	Pupil Transportation	\$	394,950,126	\$	404,245,812	223
GRF 200-503	Bus Purchase Allowance	\$	17,199,960	\$	17,199,960	224
GRF 200-505	School Lunch Match	\$	8,998,025	\$	8,998,025	225
GRF 200-509	Adult Literacy Education	\$	8,774,250	\$	8,774,250	226
GRF 200-511	Auxiliary Services	\$	127,903,356	\$	127,903,356	227
GRF 200-513	Student Intervention Services	\$	38,890,815	\$	41,090,815	228
GRF 200-514	Postsecondary Adult Career-Technical Education	\$	19,919,464	\$	19,919,464	229
GRF 200-520	Disadvantaged Pupil Impact Aid	\$	371,766,738	\$	373,266,738	230
GRF 200-521	Gifted Pupil Program	\$	48,201,031	\$	48,201,031	231
GRF 200-525	Parity Aid	\$	320,677,373	\$	426,951,154	232
GRF 200-532	Nonpublic Administrative Cost Reimbursement	\$	55,803,103	\$	55,803,103	233
GRF 200-540	Special Education Enhancements	\$	137,214,484	\$	139,536,046	234
GRF 200-545	Career-Technical Education Enhancements	\$	14,572,907	\$	14,572,907	235
GRF 200-546	Charge-Off Supplement	\$	48,478,418	\$	48,478,418	236
GRF 200-558	Emergency Loan	\$	3,022,500	\$	2,300,000	237

		Interest Subsidy				
GRF	200-566	OhioReads Grants	\$	12,874,777	\$	12,832,272 238
GRF	200-578	Safe and Supportive Schools	\$	3,576,348	\$	3,576,348 239
GRF	200-901	Property Tax Allocation - Education	\$	783,350,000	\$	822,360,000 240
GRF	200-906	Tangible Tax Exemption - Education	\$	70,710,000	\$	67,710,000 241
TOTAL GRF	General Revenue Fund		\$	<del>7,149,334,615</del>	\$	7,317,750,989 242
				<u>7,229,334,615</u>		
		General Services Fund Group				243
138	200-606	Computer Services	\$	7,404,690	\$	7,635,949 244
4D1	200-602	Ohio Prevention/Education Resource Center	\$	347,000	\$	347,000 245
4L2	200-681	Teacher Certification and Licensure	\$	5,038,017	\$	5,236,517 246
452	200-638	Miscellaneous Revenue	\$	500,000	\$	500,000 247
5B1	200-651	Child Nutrition Services	\$	800,000	\$	800,000 248
5H3	200-687	School District Solvency Assistance	\$	18,000,000	\$	18,000,000 249
596	200-656	Ohio Career Information System	\$	516,694	\$	529,761 250
TOTAL GSF	General Services Fund Group		\$	32,606,401	\$	33,049,227 251
		Federal Special Revenue Fund Group				253
3C5	200-661	Early Childhood Education	\$	21,508,746	\$	21,508,746 254
3D1	200-664	Drug Free Schools	\$	13,169,757	\$	13,347,966 255
3D2	200-667	Honors Scholarship Program	\$	1,786,500	\$	1,786,500 256

3H9	200-605	Head Start Collaboration Project	\$	275,000	\$	275,000	257
3L6	200-617	Federal School Lunch	\$	185,948,186	\$	191,898,528	258
3L7	200-618	Federal School Breakfast	\$	48,227,431	\$	49,524,254	259
3L8	200-619	Child/Adult Food Programs	\$	63,577,244	\$	65,293,830	260
3L9	200-621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701	261
3M0	200-623	ESEA Title 1A	\$	356,458,504	\$	384,975,184	262
3M1	200-678	Innovative Education	\$	15,041,997	\$	16,094,937	263
3M2	200-680	Ind W/Disab Education Act	\$	288,468,284	\$	331,392,575	264
3S2	200-641	Education Technology	\$	19,682,057	\$	20,469,339	265
3T4	200-613	Public Charter Schools	\$	23,287,500	\$	26,187,113	266
3Y2	200-688	21st Century Community Learning Centers	\$	17,138,239	\$	18,500,000	267
3Y4	200-632	Reading First	\$	29,881,256	\$	33,168,194	268
3Y6	200-635	Improving Teacher Quality	\$	103,686,420	\$	104,100,000	269
3Y7	200-689	English Language Acquisition	\$	4,872,334	\$	5,505,737	270
3Z2	200-690	State Assessments	\$	11,894,315	\$	12,489,031	271
309	200-601	Educationally Disadvantaged	\$	22,148,769	\$	22,899,001	272
366	200-604	Adult Basic Education	\$	21,369,906	\$	22,223,820	273
367	200-607	School Food Services	\$	10,767,759	\$	11,144,631	274
368	200-614	Veterans' Training	\$	626,630	\$	655,587	275
369	200-616	Career-Tech Education Federal Enhancement	\$	8,165,672	\$	8,165,672	276
370	200-624	Education of Exceptional Children	\$	1,933,910	\$	1,933,910	277
374	200-647	Troops to Teachers	\$	2,618,076	\$	2,622,370	278

TOTAL FED Federal Special			279
Revenue Fund Group	\$ 1,320,564,139	\$ 1,414,191,626	280
State Special Revenue Fund Group			281
4R7 200-695 Indirect Cost Recovery	\$ 5,002,500	\$ 5,250,400	282
4V7 200-633 Interagency Support	\$ 800,000	\$ 800,000	283
454 200-610 Guidance and Testing	\$ 956,761	\$ 956,761	284
455 200-608 Commodity Foods	\$ 11,308,000	\$ 11,624,624	285
5U2 200-685 National Education	\$ 200,000	\$ 200,000	286
Statistics			
5W2 200-663 Head Start Plus/Head Start	\$ 57,170,000	\$ 108,184,000	287
5X8 200-453 Jobs for Ohio Graduates Program	\$ 3,500,000	\$ 3,500,000	288
598 200-659 Auxiliary Services Reimbursement	\$ 1,328,910	\$ 1,328,910	289
620 200-615 Educational Grants	\$ 1,000,000	\$ 1,000,000	290
TOTAL SSR State Special Revenue Fund Group	\$ 81,266,171	\$ 132,844,695	291
Lottery Profits Education Fund Group			293
017 200-612 Base Cost Funding	\$ 606,123,500	\$ 606,195,300	294
017 200-682 Lease Rental Payment Reimbursement	\$ 31,776,500	\$ 31,704,700	295
TOTAL LPE Lottery Profits Education Fund Group	\$ 637,900,000	\$ 637,900,000	296
Revenue Distribution Fund Group			298
053 200-900 School District Property Tax Replacement	\$ 115,911,593	\$ 115,911,593	299
TOTAL RDF Revenue Distribution Fund Group	\$ 115,911,593	\$ 115,911,593	300
TOTAL ALL BUDGET FUND GROUPS	\$ <del>9,337,582,973</del>	\$ 9,651,648,130	302
	<u>9,417,582,973</u>		

Sec. 41.09. PUPIL TRANSPORTATION 304

Of the foregoing appropriation item 200-502, Pupil 305  
Transportation, up to \$822,400 in each fiscal year may be used by 306  
the Department of Education for training prospective and 307  
experienced school bus drivers in accordance with training 308  
programs prescribed by the Department. Up to \$65,232,683 in fiscal 309  
year 2004 and up to \$56,975,910 in ~~each~~ fiscal year 2005 may be 310  
used by the Department of Education for special education 311  
transportation reimbursements to school districts and county MR/DD 312  
boards for transportation operating costs as provided in division 313  
(M) of section 3317.024 of the Revised Code. The remainder of 314  
appropriation item 200-502, Pupil Transportation, shall be used 315  
for the state reimbursement of public school districts' costs in 316  
transporting pupils to and from the school they attend in 317  
accordance with the district's policy, State Board of Education 318  
standards, and the Revised Code. 319

BUS PURCHASE ALLOWANCE 320

The foregoing appropriation item 200-503, Bus Purchase 321  
Allowance, shall be distributed to school districts, educational 322  
service centers, and county MR/DD boards pursuant to rules adopted 323  
under section 3317.07 of the Revised Code. Up to 28 per cent of 324  
the amount appropriated may be used to reimburse school districts 325  
and educational service centers for the purchase of buses to 326  
transport handicapped and nonpublic school students and to county 327  
MR/DD boards, the Ohio School for the Deaf, and the Ohio School 328  
for the Blind for the purchase of buses to transport handicapped 329  
students. 330

SCHOOL LUNCH MATCH 331

The foregoing appropriation item 200-505, School Lunch Match, 332  
shall be used to provide matching funds to obtain federal funds 333

for the school lunch program. 334

**Section 4.** That existing Sections 41 and 41.09 of Am. Sub. 335  
H.B. 95 of the 125th General Assembly are hereby repealed. 336

**Section 5.** That Section 41.13 of Am. Sub. H.B. 95 of the 337  
125th General Assembly, as amended by Am. Sub. S.B. 189 of the 338  
125th General Assembly, be amended to read as follows: 339

**Sec. 41.13. SPECIAL EDUCATION ENHANCEMENTS 340**

Of the foregoing appropriation item 200-540, Special 341  
Education Enhancements, up to \$44,204,000 in fiscal year 2004 and 342  
up to \$45,441,712 in fiscal year 2005 shall be used to fund 343  
special education and related services at county boards of mental 344  
retardation and developmental disabilities for eligible students 345  
under section 3317.20 of the Revised Code. Up to \$2,452,125 shall 346  
be used in each fiscal year to fund special education classroom 347  
and related services units at institutions. 348

Of the foregoing appropriation item 200-540, Special 349  
Education Enhancements, up to \$2,906,875 in each fiscal year shall 350  
be used for home instruction for children with disabilities; up to 351  
\$1,462,500 in each fiscal year shall be used for parent mentoring 352  
programs; and up to \$2,783,396 in each fiscal year may be used for 353  
school psychology interns. 354

Of the foregoing appropriation item 200-540, Special 355  
Education Enhancements, \$3,406,090 in each fiscal year shall be 356  
used by the Department of Education to assist school districts in 357  
funding aides pursuant to paragraph (A)(3)(c)(i)(b) of rule 358  
3301-51-04 of the Administrative Code. 359

~~Of~~ The remainder of the foregoing appropriation item 200-540, 360  
Special Education Enhancements, after all other set asides in this 361  
section, in fiscal year 2004 and \$78,384,498 in ~~each~~ fiscal year 362

2005 shall be distributed by the Department of Education to county 363  
boards of mental retardation and developmental disabilities, 364  
educational service centers, and school districts for preschool 365  
special education units and preschool supervisory units in 366  
accordance with section 3317.161 of the Revised Code. The 367  
Department may reimburse county boards of mental retardation and 368  
developmental disabilities, educational service centers, and 369  
school districts for related services as defined in rule 370  
3301-51-11 of the Administrative Code, for preschool occupational 371  
and physical therapy services provided by a physical therapy 372  
assistant and certified occupational therapy assistant, and for an 373  
instructional assistant. To the greatest extent possible, the 374  
Department of Education shall allocate these units to school 375  
districts and educational service centers. The Controlling Board 376  
may approve the transfer of unallocated funds from appropriation 377  
item 200-501, Base Cost Funding, to appropriation item 200-540, 378  
Special Education Enhancements, to fully fund existing units as 379  
necessary or to fully fund additional units. The Controlling Board 380  
may approve the transfer of unallocated funds from appropriation 381  
item 200-540, Special Education Enhancements, to appropriation 382  
item 200-501, Base Cost Funding, to fully fund the special 383  
education weight cost funding. 384

The Department of Education shall require school districts, 385  
educational service centers, and county MR/DD boards serving 386  
preschool children with disabilities to document child progress 387  
using research-based indicators prescribed by the Department and 388  
report results annually. The reporting dates and methodology shall 389  
be determined by the Department. 390

Of the foregoing appropriation item 200-540, Special 391  
Education Enhancements, \$315,000 in each fiscal year shall be 392  
expended to conduct a demonstration project involving language and 393  
literacy intervention teams supporting student acquisition of 394

language and literacy skills. The demonstration project shall 395  
demonstrate improvement of language and literacy skills of at-risk 396  
learners under the instruction of certified speech pathologists 397  
and educators. Baseline data shall be collected and comparison 398  
data for fiscal year 2004 and fiscal year 2005 shall be collected 399  
and reported to the Governor, OhioReads Council, Department of 400  
Education, and the General Assembly. 401

Of the foregoing appropriation item 200-540, Special 402  
Education Enhancements, up to \$500,000 in each fiscal year shall 403  
be used for the Research-Based Reading Mentoring Program. 404

Of the foregoing appropriation item 200-540, Special 405  
Education Enhancements, \$600,000 in each fiscal year shall be used 406  
to support the Bellefaire Jewish Children's Bureau. 407

**Section 6.** That existing Section 41.13 of Am. Sub. H.B. 95 of 408  
the 125th General Assembly, as amended by Am. Sub. S.B. 189 of the 409  
125th General Assembly, is hereby repealed. 410

**Section 7.** All items in Sections 8 to 17 of this act are 411  
hereby appropriated as designated out of any moneys in the state 412  
treasury to the credit of the designated fund that are not 413  
otherwise appropriated. For all appropriations made in this 414  
section, those in the first column are for fiscal year 2005 and 415  
those in the second column are for fiscal year 2006. 416

**Section 8.** ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION 417  
SERVICES 418  
Tobacco Master Settlement Agreement Fund Group 419  
L87 038-403 Urban Minority \$ 500,000 \$ 500,000 420  
Alcoholism and Drug  
Abuse Outreach  
Programs

L87 038-405	Juvenile Offender	\$	3,000,000	\$	3,000,000	421
	Aftercare Program					
TOTAL TSF Tobacco Master Settlement Agreement Fund Group		\$	3,500,000	\$	3,500,000	422
TOTAL ALL BUDGET FUND GROUPS		\$	3,500,000	\$	3,500,000	423

**Section 9. AGO ATTORNEY GENERAL** 425

Tobacco Master Settlement Agreement Fund Group						426
J87 055-635	Law Enforcement	\$	8,647,000	\$	3,000,000	427
	Technology, Training, and Facility Enhancements					
U87 055-402	Tobacco Settlement	\$	562,546	\$	573,797	428
	Oversight, Administration, and Enforcement					
TOTAL TSF Tobacco Master Settlement Agreement Fund Group		\$	9,209,546	\$	3,573,797	429
TOTAL ALL BUDGET FUND GROUPS		\$	9,209,546	\$	3,573,797	430

**Section 10. DEV DEPARTMENT OF DEVELOPMENT** 432

Tobacco Master Settlement Agreement Fund Group						433
M87 195-435	Biomedical Research	\$	24,079,558	\$	23,896,239	434
	and Technology Transfer					
TOTAL TSF Tobacco Master Settlement Agreement Fund Group		\$	24,079,558	\$	23,896,239	435
TOTAL ALL BUDGET FUND GROUPS		\$	24,079,558	\$	23,896,239	436

**Section 11. DOH DEPARTMENT OF HEALTH** 438

Tobacco Master Settlement Agreement Fund Group						439
L87 440-404	Minority Health Care	\$	350,000	\$	350,000	440

		Data Development					
L87	440-409	Tuberculosis	\$	450,000	\$	450,000	441
		Prevention and Treatment					
L87	440-410	Hepatitis C Prevention	\$	425,000	\$	425,000	442
		and Intervention					
L87	440-411	Dental Care Programs	\$	420,000	\$	420,000	443
		for Minority and Low-Income Populations					
L87	440-412	Emergency Medications	\$	715,232	\$	583,653	444
		and Oxygen for Low-Income Seniors					
L87	440-414	Uncompensated Care	\$	3,852,400	\$	3,855,051	445
L87	440-421	Infant Mortality	\$	266,000	\$	266,000	446
		Reduction Initiative					
L87	440-428	Automated External	\$	2,500,000	\$	0	447
		Defibrillators					
		TOTAL TSF Tobacco Master					448
		Settlement Agreement Fund					449
		Group	\$	8,978,632	\$	6,349,704	450
		TOTAL ALL BUDGET FUND GROUPS	\$	8,978,632	\$	6,349,704	451
		AUTOMATED EXTERNAL DEFIBRILLATORS					452
		The foregoing appropriation item 440-428, Automated External					453
		Defibrillators, shall be used by the Department of Health for the					454
		acquisition and placement of automated external defibrillators in					455
		Ohio primary and secondary schools.					456
		The Department of Health shall select one nonprofit					457
		organization through a request for proposal process to receive					458
		grants for the placement of automated external defibrillators in					459
		primary and secondary schools. The request for proposal process					460
		used shall be in accordance with rule 123:5-1-08 of the					461
		Administrative Code. The grant recipient shall not charge any					462

school for the equipment costs associated with the initial 463  
placement of an automated external defibrillator. The purpose of 464  
the nonprofit organization selected shall include some type of 465  
public health advocacy or activities. 466

**Section 12. MIH COMMISSION ON MINORITY HEALTH** 467

Tobacco Master Settlement Agreement Fund Group 468

L87 149-402 Minority Health and \$ 1,090,000 \$ 1,090,000 469  
Academic Partnership  
Grants

L87 149-403 Training and Capacity \$ 100,000 \$ 100,000 470  
Building

TOTAL TSF Tobacco Master Settlement \$ 1,190,000 \$ 1,190,000 471  
Agreement Fund Group

TOTAL ALL BUDGET FUND GROUPS \$ 1,190,000 \$ 1,190,000 472

**Section 13. DHS DEPARTMENT OF PUBLIC SAFETY** 474

Tobacco Master Settlement Agreement Fund Group 475

L87 767-406 Under-Age Tobacco Use \$ 636,000 \$ 636,000 476  
Enforcement

TOTAL TSF Tobacco Master Settlement \$ 636,000 \$ 636,000 477  
Agreement Fund

TOTAL ALL BUDGET FUND GROUPS \$ 636,000 \$ 636,000 478

**Section 14. NET SCHOOLNET COMMISSION** 480

Tobacco Master Settlement Agreement Fund Group 481

S87 228-602 Education Technology \$ 9,277,865 \$ 6,274,109 482  
Trust Fund

TOTAL TSF Tobacco Master 483

Settlement Agreement Fund 484

Group \$ 9,277,865 \$ 6,274,109 485

TOTAL ALL BUDGET FUND GROUPS \$ 9,277,865 \$ 6,274,109 486

SCHOOLNET PLUS 487

The Ohio SchoolNet Commission shall distribute SchoolNet Plus Grants to qualifying school districts in fiscal year 2005 to establish and equip at least one interactive computer workstation for each five students enrolled in the seventh grade as reported by school districts pursuant to division (A) of section 3317.03 of the Revised Code.

Upon completion of the SchoolNet Plus Grant Program for the seventh grade, the Ohio SchoolNet Commission shall distribute SchoolNet Plus Grants to qualifying school districts in fiscal year 2006 to establish and equip at least one interactive computer workstation for each five children enrolled in the eighth grade as reported by school districts pursuant to division (A) of section 3317.03 of the Revised Code.

Districts in the first two quartiles of wealth shall receive up to \$275 per pupil for students in the targeted grade to purchase classroom computers. Districts in the third and fourth quartiles shall receive up to \$105 per pupil in the targeted grade. If a district has met the state's goal of one computer to every five students in the targeted grade, the district may use the funds provided through SchoolNet Plus to purchase computers for successive grades or to fulfill educational technology needs in other grades as specified in the district's technology plan.

**Section 15. SOA SOUTHERN OHIO AGRICULTURAL AND COMMUNITY DEVELOPMENT FOUNDATION**

Tobacco Master Settlement Agreement Fund Group				512	
5M9 945-601 Operating Expenses	\$	421,725	\$	430,277	513
K87 945-602 Southern Ohio	\$	13,200,000	\$	12,600,000	514
Agricultural and Community Development Foundation					
TOTAL TSF Tobacco Master					515

Settlement Agreement Fund				516
Group	\$	13,621,725	\$ 13,030,277	517
TOTAL ALL BUDGET FUND GROUPS	\$	13,621,725	\$ 13,030,277	518

**Section 16. TAX DEPARTMENT OF TAXATION** 520

Tobacco Master Settlement Agreement Fund Group				521
T87 110-402 Tobacco Settlement	\$	223,563	\$ 228,034	522
Enforcement				
TOTAL TSF Tobacco Master Settlement	\$	223,563	\$ 228,034	523
Agreement Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	223,563	\$ 228,034	524

**Section 17. TUP TOBACCO USE PREVENTION AND CONTROL FOUNDATION** 526

Tobacco Master Settlement Agreement Fund Group				527
H87 940-601 Tobacco Use Prevention	\$	0	\$ 107,500,000	528
and Control Foundation				
5M8 940-601 Operating Expenses	\$	1,273,000	\$ 1,298,000	529
TOTAL TSF Tobacco Master Settlement	\$	1,273,000	\$ 108,798,000	530
Agreement Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	1,273,000	\$ 108,798,000	531

**Section 18.** All items set forth in this section are hereby 533  
appropriated out of any moneys in the state treasury to the credit 534  
of the Education Facilities Trust Fund (Fund N87) that are not 535  
otherwise appropriated. 536

Appropriations

SFC SCHOOL FACILITIES COMMISSION 537

CAP-780 Classroom Facilities Assistance Program	\$	243,200,000		538
Total School Facilities Commission	\$	243,200,000		539
TOTAL Education Facilities Trust Fund	\$	243,200,000		540

**Section 18.01.** Section 18 of this act shall remain in full 542  
force and effect commencing on July 1, 2004, and terminating on 543

June 30, 2006, for the purpose of drawing money from the state 544  
treasury in payment of liabilities lawfully incurred thereunder, 545  
and on June 30, 2006, and not before, the moneys appropriated 546  
thereby shall lapse into the funds from which they are severally 547  
appropriated. 548

The appropriations made in Section 18 of this act are subject 549  
to all provisions of the capital appropriations act governing the 550  
2004-2006 biennium that are generally applicable to such 551  
appropriations. Expenditures from appropriations contained in 552  
Section 18 shall be accounted for as though made in the capital 553  
appropriations act governing the 2004-2006 biennium. 554

**Section 19. PERSONAL SERVICE EXPENSES** 555

Unless otherwise prohibited by law, each appropriation in 556  
this act from which personal service expenses are paid shall bear 557  
the employer's share of public employees' retirement, workers' 558  
compensation, disabled workers' relief, and all group insurance 559  
programs; the costs of centralized accounting, centralized payroll 560  
processing, and related personnel reports and services; the cost 561  
of the Office of Collective Bargaining; the cost of the Personnel 562  
Board of Review; the cost of the Employee Assistance Program; the 563  
cost of the Equal Opportunity Center; the costs of interagency 564  
information management infrastructure; and the cost of 565  
administering the state employee merit system as required by 566  
section 124.07 of the Revised Code. Such costs shall be determined 567  
in conformity with appropriate sections of law and paid in 568  
accordance with procedures specified by the Office of Budget and 569  
Management. 570

**Section 20. REISSUANCE OF VOIDED WARRANTS** 571

In order to provide funds for the reissuance of voided 572

warrants pursuant to section 117.47 of the Revised Code, there is 573  
appropriated, out of moneys in the state treasury from the fund 574  
credited as provided in section 117.47 of the Revised Code, that 575  
amount sufficient to pay such warrants when approved by the Office 576  
of Budget and Management. 577

**Section 21. REAPPROPRIATION OF UNEXPENDED ENCUMBERED BALANCES** 578  
**OF OPERATING APPROPRIATIONS** 579

An unexpended balance of an operating appropriation or 580  
reappropriation that a state agency lawfully encumbered prior to 581  
the close of a fiscal year is reappropriated on the first day of 582  
July of the following fiscal year from the fund from which it was 583  
originally appropriated or reappropriated for the following period 584  
and shall remain available only for the purpose of discharging the 585  
encumbrance. 586

(A) For an encumbrance for personal services, maintenance, 587  
equipment, or items for resale, other than an encumbrance for an 588  
item of special order manufacture not available on term contract 589  
or in the open market or for reclamation of land or oil and gas 590  
wells, for a period of not more than five months from the end of 591  
the fiscal year; 592

(B) For an encumbrance for an item of special order 593  
manufacture not available on term contract or in the open market, 594  
for a period of not more than five months from the end of the 595  
fiscal year or, with the written approval of the Director of 596  
Budget and Management, for a period of not more than twelve months 597  
from the end of the fiscal year; 598

(C) For an encumbrance for reclamation of land or oil and gas 599  
wells, for a period ending when the encumbered appropriation is 600  
expended or for a period of two years, whichever is less; 601

(D) For an encumbrance for any other expense, for such period 602

as the Director of Budget and Management approves, provided such  
period does not exceed two years.

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Any operating appropriations for which unexpended balances  
are reappropriated beyond a five-month period from the end of the  
fiscal year pursuant to division (B) of this section shall be  
reported to the Controlling Board by the Director of Budget and  
Management by the thirty-first day of December of each year. The  
report on each such item shall include the item, the cost of the  
item, and the name of the vendor. This report to the Controlling  
Board shall be updated on a quarterly basis for encumbrances  
remaining open.

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Upon the expiration of the reappropriation period set out in  
division (A), (B), (C), or (D) of this section, a reappropriation  
made pursuant to this section lapses, and the Director of Budget  
and Management shall cancel the encumbrance of the unexpended  
reappropriation not later than the end of the weekend following  
the expiration of the reappropriation period.

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Notwithstanding the preceding paragraph, with the approval of  
the Director of Budget and Management, an unexpended balance of an  
encumbrance that was reappropriated on the first day of July  
pursuant to this section for a period specified in division (C) or  
(D) of this section and that remains encumbered at the close of  
the fiscal biennium is hereby reappropriated pursuant to this  
section on the first day of July of the following fiscal biennium  
from the fund from which it was originally appropriated or  
reappropriated for the applicable period specified in division (C)  
or (D) of this section and shall remain available only for the  
purpose of discharging the encumbrance.

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If the Controlling Board approved a purchase, that approval  
remains in effect as long as the appropriation used to make that  
purchase remains encumbered.

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**Section 22.** That Section 3 of Sub. H.B. 262 of the 125th General Assembly be amended to read as follows:

**Sec. 3.** (A) As used in this section:

(1) "Automatic tabulating equipment," "ballot," "direct recording electronic voting machine," "marking device," "voter verified paper audit trail," and "voting machines" have the same meanings as in section 3506.01 of the Revised Code.

(2) "County originally scheduled to acquire voting machines during the 2004 calendar year" means:

(a) The following counties that are scheduled, pursuant to the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, to acquire voting machines, marking devices, or automatic tabulating equipment for use in the August 2004 special election with funds made available pursuant to the Help America Vote Act of 2002: Adams, Auglaize, Brown, Carroll, Crawford, Delaware, Hardin, Harrison, Henry, Logan, Medina, Mercer, Portage, Putnam, and Trumbull;

(b) The following counties that are scheduled, pursuant to the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, to acquire voting machines, marking devices, or automatic tabulating equipment for use in the November 2004 general election with funds made available pursuant to the Help America Vote Act of 2002: Butler, Columbiana, Darke, Fairfield, Gallia, Huron, Jackson, Lorain, Lucas, Madison, Morgan, Paulding, Richland, Tuscarawas, Washington, and Williams.

(3) "Help America Vote Act of 2002" means the "Help America Vote Act of 2002," Public Law 107-252, 116 Stat. 1666.

(4) "Ohio state plan" means the state plan prepared by the Secretary of State and the state plan committee for the state of Ohio pursuant to the Help America Vote Act of 2002.

(B)(1)(a) If the board of elections of a county originally scheduled to acquire voting machines during the 2004 calendar year wishes to acquire voting machines, marking devices, or automatic tabulating equipment for use during the 2004 calendar year according to the schedule proposed pursuant to the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, with funds made available pursuant to the Help America Vote Act of 2002, the board may vote to reaffirm any prior decision made under that process to so acquire and use voting machines, marking devices, or automatic tabulating equipment at a meeting held within thirty days after the effective date of this section.

(b) If the board of elections of a county originally scheduled to acquire voting machines during the 2004 calendar year fails to vote on a decision under division (B)(1)(a) of this section within thirty days after the effective date of this section, the county shall not acquire voting machines, marking devices, or automatic tabulating equipment for use during the 2004 calendar year with funds made available pursuant to the Help America Vote Act of 2002. The Secretary of State shall not compel the board of elections of a county originally scheduled to acquire voting machines during the 2004 calendar year to vote to acquire voting machines, marking devices, or automatic tabulating equipment under division (B)(1)(a) of this section.

(c) If the board of elections of a county originally scheduled to acquire voting machines during the 2004 calendar year votes to reaffirm a prior decision to acquire voting machines, marking devices, or automatic tabulating equipment for use during the 2004 calendar year with funds made available pursuant to the

Help America Vote Act of 2002 under division (B)(1)(a) of this section, that county shall proceed with the acquisition of the selected voting machines, marking devices, or automatic tabulating equipment with those funds according to the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004. The Secretary of State shall purchase the selected voting machines, marking devices, or automatic tabulating equipment for the county by acting as an agent on behalf of the board of county commissioners of that county.

(2)(a) A county may acquire voting machines, marking devices, or automatic tabulating equipment for use during the 2005 calendar year pursuant to the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, prior to the certification of direct recording electronic voting machines with a voter verified paper audit trail in accordance with division (E)(1) of this section if both of the following apply:

(i) The county did not acquire voting machines, marking devices, or automatic tabulating equipment under division (B)(1) of this section for use during the 2004 calendar year.

(ii) The county has selected, through the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, voting machines, marking devices, or automatic tabulating equipment other than direct recording electronic voting machines as the primary voting system to be used in the county. This division does not preclude the acquisition of direct recording electronic voting machines to the extent that the county is scheduled to acquire only one direct recording electronic voting machine for each polling place as required by the Help America Vote Act of 2002.

(b) If a county chooses to acquire voting machines, marking devices, or automatic tabulating equipment under division (B)(2)(a) of this section, the Secretary of State shall purchase the selected voting machines, marking devices, or automatic tabulating equipment for the county by acting as an agent on behalf of the board of county commissioners of that county.

(C) It is the intent of the General Assembly that the state of Ohio pay, with funds made available pursuant to the Help America Vote Act of 2002 or through an appropriation of state capital funds, for any additional costs a county incurs after the initial purchase of direct recording electronic voting machines, to upgrade, retrofit, or otherwise equip those voting machines with a voter verified paper audit trail if the county acquires the voting machines in any of the following manners:

(1) The county purchases the direct recording electronic voting machines before the effective date of this section using county funds and is entitled to reimbursement for that purchase under the Help America Vote Act of 2002.

(2) The county acquires the direct recording electronic voting machines for use during the 2004 calendar year under division (B)(1) of this section.

(3) The county acquires voting machines, marking devices, or automatic tabulating equipment, including direct recording electronic voting machines, under division (B)(2) of this section.

(4) The county acquired direct recording electronic voting machines before January 1, 2000, and is not scheduled to acquire new voting machines, marking devices, or automatic tabulating equipment with funds made available under the Help America Vote Act of 2002 under the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004.

(D)(1) If a county does not acquire voting machines, marking devices, or automatic tabulating equipment under division (B)(1) or (2) of this section or does not acquire voting machines, marking devices, or automatic tabulating equipment through the process described in division (C)(1) or (4) of this section, the process for counties to acquire voting machines, marking devices, or automatic tabulating equipment with funds made available pursuant to the Help America Vote Act of 2002 that is outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, shall be subject to divisions (E) and (F) of this section with respect to any direct recording electronic voting machine a county selects for acquisition.

(2) Nothing in division (E) or (F) of this section shall affect the acquisition of voting machines, marking devices, or automatic tabulating equipment, other than direct recording electronic voting machines, under the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004.

(E)(1)(a) The Secretary of State shall adopt a schedule pursuant to which the Secretary of State shall certify for use in this state direct recording electronic voting machines with a voter verified paper audit trail. That schedule shall provide for the certification, acquisition, and implementation of direct recording electronic voting machines with a voter verified paper audit trail not later than the first federal election that occurs after January 1, 2006, unless required sooner by the Help America Vote Act of 2002.

(b) Before certifying any direct recording electronic voting machines with a voter verified paper audit trail, the Secretary of State shall establish standards for the certification of those machines as required by division (H)(3) of section 3506.05 of the Revised Code. In addition to the requirements of that section, the

standards for certification shall require a direct recording 789  
electronic voting machine with a voter verified paper audit trail 790  
to meet the requirements of the Help America Vote Act of 2002, 791  
Chapter 3506. of the Revised Code, this act, and any other 792  
applicable laws and standards. 793

(c) Any vendor of a direct recording electronic voting 794  
machine with a voter verified paper audit trail may seek 795  
certification of that machine for use in this state under the 796  
certification standards the Secretary of State is required to 797  
adopt under division (H)(3) of section 3506.05 of the Revised Code 798  
and division (E)(1)(b) of this section according to the 799  
certification schedule the Secretary of State is required to adopt 800  
under division (E)(1)(a) of this section. 801

(d) No vendor, type, or model of direct recording electronic 802  
voting machine that was approved in this state according to the 803  
process outlined in the version of the Ohio state plan that was 804  
published in the Federal Register on March 24, 2004, shall remain 805  
on the approved list of vendors, types, or models for acquisition 806  
with funds made available pursuant to the Help America Vote Act of 807  
2002 unless it is subject to the certification standards for 808  
direct recording electronic voting machines with a voter verified 809  
paper audit trail the Secretary of State is required to adopt 810  
under division (H)(3) of section 3506.05 of the Revised Code and 811  
division (E)(1)(b) of this section. 812

(2) After the Secretary of State certifies direct recording 813  
electronic voting machines with a voter verified paper audit trail 814  
under division (E)(1) of this section, the Secretary of State 815  
shall commence price negotiations with any willing vendor that 816  
meets both of the following requirements: 817

(a) The vendor's direct recording electronic voting machine 818  
was approved for acquisition and use in this state under the 819

process outlined in the version of the Ohio state plan that was 820  
published in the Federal Register on March 24, 2004. 821

(b) The vendor's direct recording electronic voting machine 822  
with a voter verified paper audit trail is certified in accordance 823  
with division (E)(1) of this section. 824

(3) With each willing vendor that meets the requirements of 825  
division (E)(2) of this section, the Secretary of State shall 826  
negotiate for a final unified price. The final unified price shall 827  
include both of the following: 828

(a) The cost of upgrading, retrofitting, or otherwise 829  
equipping all direct recording electronic voting machines produced 830  
by that vendor and acquired under division (B)(1) or (2) of this 831  
section or through the process described in division (C)(1) or (4) 832  
of this section with a voter verified paper audit trail; 833

(b) The purchase price for that vendor for all direct 834  
recording electronic voting machines that were previously selected 835  
by a county for acquisition during the 2005 calendar year under 836  
the process outlined in the version of the Ohio state plan that 837  
was published in the Federal Register on March 24, 2004, and that 838  
have not already been acquired under division (B)(2) of this 839  
section. The purchase price under this division shall include the 840  
price for equipping each direct recording electronic voting 841  
machine with a voter verified paper audit trail. 842

(4) After the Secretary of State negotiates a final unified 843  
price with each eligible vendor under division (E)(3) of this 844  
section, the Secretary of State shall perform the following 845  
calculation with respect to each vendor: 846

(a) For each vendor, the final unified price shall be added 847  
to the total cost of all direct recording electronic voting 848  
machines acquired from that vendor under division (B)(1) or (2) of 849  
this section or through the process described in division (C)(1) 850

or (4) of this section.

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(b) To determine the percentage change between acquiring direct recording electronic voting machines under the contract negotiated under the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, and acquiring direct recording electronic voting machines with a voter verified paper audit trail, the sum under division (E)(4)(a) of this section shall be divided by the total cost of acquiring direct recording electronic voting machines from that vendor if all counties that previously selected those machines from that vendor under the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, had acquired the machines under that contract.

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(5) If the calculation performed under division (E)(4) of this section results in a percentage cost of one hundred twenty per cent or less, the Secretary of State may accept this cost, subject to Controlling Board approval. If approved by the Controlling Board, the Secretary of State may permit both of the following:

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(a) Counties that have not yet purchased direct recording electronic voting machines with funds made available under the Help America Vote Act of 2002 and that previously selected that vendor's direct recording electronic voting machines to purchase direct recording electronic voting machines with a voter verified paper audit trail from that vendor according to the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004;

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(b) Counties that previously purchased direct recording electronic voting machines from that vendor under division (B)(1) or (2) of this section or through the process described in division (C)(1) or (4) of this section to upgrade, retrofit, or

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otherwise equip those direct recording electronic voting machines 882  
with a voter verified paper audit trail from that vendor. 883

(6) If the calculation performed under division (E)(4) of 884  
this section results in a percentage cost of more than one hundred 885  
twenty per cent, the Secretary of State shall not accept the cost, 886  
and any contract negotiated with that vendor shall be deemed null 887  
and void with respect to any direct recording electronic voting 888  
machines not yet purchased. 889

(F)(1) If a vendor of a direct recording electronic voting 890  
machine that was approved for acquisition and use in this state 891  
under the process outlined in the version of the Ohio state plan 892  
that was published in the Federal Register on March 24, 2004, 893  
chooses not to seek or fails to gain certification for a direct 894  
recording electronic voting machine with a voter verified paper 895  
audit trail, or if the vendor's contract is declared null and void 896  
under division (E)(6) of this section, any vendor of a direct 897  
recording electronic voting machine with a voter verified paper 898  
audit trail that is certified for use in this state may submit a 899  
bid to provide voting machines, marking devices, or automatic 900  
tabulating equipment for those counties whose original direct 901  
recording electronic voting machine selection is no longer 902  
available under this section. 903

(2) The Secretary of State shall develop a process by which 904  
vendors of a certified direct recording electronic voting machine 905  
with a voter verified paper audit trail may submit bids under 906  
division (F)(1) of this section, by which the Secretary of State 907  
shall approve for acquisition, and by which counties identified in 908  
division (F)(1) of this section may purchase voting machines, 909  
marking devices, or automatic tabulating equipment using funds 910  
made available pursuant to the Help America Vote Act of 2002. Any 911  
voting machines, marking devices, or automatic tabulating 912  
equipment so purchased shall meet the requirements of the Help 913

America Vote Act of 2002, Chapter 3506. of the Revised Code, this 914  
act, and any other applicable laws and standards. Any process the 915  
Secretary of State develops under this division shall be described 916  
in the Ohio state plan. The process shall permit the Secretary of 917  
State to purchase voting machines, marking devices, or automatic 918  
tabulating equipment on behalf of a board of county commissioners 919  
with the Secretary of State acting as an agent of the board. 920

The process shall not authorize the Secretary of State to do 921  
either of the following: 922

(a) Purchase voting machines, marking devices, or automatic 923  
tabulating equipment except when acting as an agent on behalf of 924  
the board of county commissioners of a county; 925

(b) Require a county board of elections to select or use any 926  
direct recording electronic voting machine except as otherwise 927  
required by federal law. 928

(3) Any purchase of voting machines, marking devices, or 929  
automatic tabulating equipment under division (F) of this section 930  
shall be subject to Controlling Board approval. 931

(G) The acquisition of voting machines, marking devices, or 932  
automatic tabulating equipment under this section with funds made 933  
available pursuant to the Help America Vote Act of 2002 shall be 934  
completed before the first federal election that occurs after 935  
January 1, 2006, unless required sooner by that Act. 936

(H) It is the intent of the General Assembly that the state 937  
of Ohio pay, with funds made available pursuant to the Help 938  
America Vote Act of 2002 or through an appropriation of state 939  
capital funds, the full cost of acquiring all voting machines, 940  
marking devices, or automatic tabulating equipment under this 941  
section. 942

**Section 23.** That existing Section 3 of Sub. H.B. 262 of the 943

125th General Assembly is hereby repealed. 944

**Section 24.** That Section 99 of Am. Sub. H.B. 95 of the 125th 945  
General Assembly, as amended by Sub. H.B. 262 of the 125th General 946  
Assembly, be amended to read as follows: 947

**Sec. 99.** SOS SECRETARY OF STATE 948

General Revenue Fund 949

GRF 050-321	Operating Expenses	\$	2,750,000	\$	2,750,000	950
GRF 050-403	Election Statistics	\$	110,570	\$	110,570	951
GRF 050-407	Pollworkers Training	\$	295,742	\$	295,742	952
GRF 050-409	Litigation	\$	4,949	\$	4,949	953

Expenditures

TOTAL GRF General Revenue Fund \$ 3,161,261 \$ 3,161,261 954

General Services Fund Group 955

4S8 050-610 Board of Voting \$ 7,200 \$ 7,200 956

Machine Examiners

412 050-609	Notary Commission	\$	178,124	\$	185,249	957
413 050-601	Information Systems	\$	163,418	\$	169,955	958
414 050-602	Citizen Education Fund	\$	72,800	\$	75,712	959
TOTAL General Services Fund Group		\$	421,542	\$	438,116	960

Federal Special Revenue Fund Group 961

3AT 050-614 Voter/Poll Worker \$ 0 \$ 5,000,000 962

Education

3AR 050-615 2004 HAVA Voting \$ 0 \$ 27,250,000 963

Machines

3AS 050-616 2005 HAVA Voting \$ 0 \$ 79,250,000 964

Machines

3X4 050-612 Ohio Cntr/Law Related \$ 41,000 \$ 41,000 965

Educ Grant

TOTAL FED Federal Special Revenue 966

Fund Group \$ 41,000 \$ 109,541,000 967

State Special Revenue Fund Group				968	
5N9 050-607 Technology	\$	124,582	\$	129,565	969
Improvements					
599 050-603 Business Services	\$	13,889,462	\$	14,241,966	970
Operating Expenses					
TOTAL SSR State Special Revenue					971
Fund Group	\$	14,014,044	\$	14,371,531	972
Holding Account Redistribution Fund Group					973
R01 050-605 Uniform Commercial	\$	65,000	\$	65,000	974
Code Refunds					
R02 050-606 Corporate/Business	\$	100,000	\$	100,000	975
Filing Refunds					
TOTAL 090 Holding Account					976
Redistribution Fund Group	\$	165,000	\$	165,000	977
TOTAL ALL BUDGET FUND GROUPS	\$	17,802,847	\$	127,676,908	978
BOARD OF VOTING MACHINE EXAMINERS					979
The foregoing appropriation item 050-610, Board of Voting					980
Machine Examiners, shall be used to pay for the services and					981
expenses of the members of the Board of Voting Machine Examiners,					982
and for other expenses that are authorized to be paid from the					983
Board of Voting Machine Examiners Fund, which is created in					984
section 3506.05 of the Revised Code. Moneys not used shall be					985
returned to the person or entity submitting the equipment for					986
examination. If it is determined that additional appropriations					987
are necessary, such amounts are appropriated.					988
HOLDING ACCOUNT REDISTRIBUTION GROUP					989
The foregoing appropriation items 050-605 and 050-606,					990
Holding Account Redistribution Fund Group, shall be used to hold					991
revenues until they are directed to the appropriate accounts or					992
until they are refunded. If it is determined that additional					993
appropriations are necessary, such amounts are appropriated.					994

VOTER/POLL WORKER EDUCATION FUND 995

If, as of the effective date of this amendment, the 996  
Controlling Board has not taken action to allow for a statewide 997  
voter education and poll worker training program in the state, the 998  
Director of Budget and Management shall transfer \$5,000,000 from 999  
the Election Reform Fund (Fund 3AA) to the Voter Education/Poll 1000  
Worker Education Fund (Fund 3AT). Of the foregoing appropriation 1001  
item 050-614, Voter/Poll Worker Education, \$2,500,000 shall be 1002  
allocated to the counties, subject to Controlling Board approval. 1003  
Of this amount, the Secretary of State shall distribute \$440,000 1004  
to the counties such that each county shall receive \$5,000. The 1005  
remaining \$2,060,000 allocated shall be distributed to the 1006  
counties based upon per capita population as determined by the 1007  
most recent federal decennial census data. \$2,500,000 shall be 1008  
used to conduct a statewide voter education and poll 1009  
worker-training program, subject to Controlling Board approval. 1010

Of the \$2,500,000 appropriated to counties, no county shall 1011  
receive its allotted funding until it has submitted a voter 1012  
education plan to, and had that plan approved by, the Secretary of 1013  
State. Of the \$2,500,000 appropriated to the Secretary of State 1014  
for the purpose of conducting a voter education and poll worker 1015  
training program, the Secretary of State may use up to \$1,000,000 1016  
for the development, implementation, and certification for 1017  
standards of Voter Verified Paper Audit Trail (VVPAT) systems. 1018

After January 1, 2005, the Secretary of State may seek 1019  
approval from the Controlling Board for the release of an 1020  
additional \$2,500,000 from the Election Reform Fund (Fund 3AA), if 1021  
the Secretary of State can demonstrate it is necessary for the 1022  
implementation of additional voter education and poll worker 1023  
training. Of this \$2,500,000, the Secretary of State must 1024  
distribute \$1,250,000 to the counties on a per capita basis based 1025  
upon population as determined by the most recent federal decennial 1026

census data. However, the \$1,250,000 shall not be released to the 1027  
individual counties until those counties have submitted a voter 1028  
education plan to, and had that plan approved by, the Secretary of 1029  
State. 1030

Upon the effective date of this amendment, the Secretary of 1031  
State may request that the Director of Budget and Management 1032  
transfer an amount from the Election Reform Fund (Fund 3AA) to a 1033  
GRF appropriation item within the Secretary of State's Budget for 1034  
the compensation of the ADA coordinator under section 3501.05 of 1035  
the Revised Code. 1036

2004 HAVA VOTING MACHINES FUND 1037

If, as of the effective date of this amendment, the 1038  
Controlling Board has not taken action to approve the funds for 1039  
deployment of HAVA certified voting systems in 2004, the Director 1040  
of Budget and Management shall transfer an amount not to exceed 1041  
\$27,250,000 from the Election Reform Fund (Fund 3AA) to the 2004 1042  
HAVA Voting Machines Fund (Fund 3AR). 1043

2005 HAVA VOTING MACHINES FUND 1044

As of the effective date of this amendment, the Director of 1045  
Budget and Management shall transfer an amount not to exceed 1046  
\$79,250,000 from the Election Reform Fund (Fund 3AA) to the 2005 1047  
HAVA Voting Machines Fund (Fund 3AS). The amount is hereby 1048  
appropriated. The Secretary of State shall certify to the Director 1049  
of Budget and Management any amount from the 2004 Voting Machines 1050  
Fund (Fund 3AR) that was not required for voting machine 1051  
replacement or upgrades. The Director of Budget and Management 1052  
shall transfer this amount to the 2005 HAVA Voting Machines Fund 1053  
(Fund 3AS) and abolish the 2004 HAVA Voting Machines Fund (Fund 1054  
3AR). All expenditures from the 2005 HAVA Voting Machine Fund for 1055  
the purpose of purchasing direct recording electronic voting 1056  
machines with a voter verified paper audit trail or upgrading, 1057

retrofitting, or otherwise equipping direct recording electronic 1058  
voting machines with a voter verified paper audit trail are 1059  
subject to Controlling Board approval. 1060

**Section 25.** That existing Section 99 of Am. Sub. H.B. 95 of 1061  
the 125th General Assembly, as amended by Sub. H.B. 262 of the 1062  
125th General Assembly, is hereby repealed. 1063

**Section 26.** Except as otherwise specifically provided in this 1064  
act, the codified and uncodified sections of law contained in this 1065  
act, and the items of law of which the codified and uncodified 1066  
sections of law contained in this act are composed, are subject to 1067  
the referendum. Therefore, under Ohio Constitution, Article II, 1068  
Section 1c and section 1.471 of the Revised Code, the codified and 1069  
uncodified sections of law contained in this act, and the items of 1070  
law of which the codified and uncodified sections of law contained 1071  
in this act are composed, take effect on the ninety-first day 1072  
after this act is filed with the Secretary of State. If, however, 1073  
a referendum petition is filed against any such codified or 1074  
uncodified section of law contained in this act, or against any 1075  
item of law of which any such codified or uncodified section of 1076  
law contained in this act is composed, the codified or uncodified 1077  
section of law, or item of law, unless rejected at the referendum, 1078  
takes effect at the earliest time permitted by law. 1079  
1080

**Section 27.** The amendment by this act of Section 3 of Sub. 1081  
H.B. 262 of the 125th General Assembly and the amendment by this 1082  
act of Section 99 of Am. Sub. H.B. 95 of the 125th General 1083  
Assembly, as amended by Sub. H.B. 262 of the 125th General 1084  
Assembly, are not subject to the referendum and, under Ohio 1085  
Constitution, Article II, Section 1d and section 1.471 of the 1086  
Revised Code, go into effect when this act becomes law. 1087

**Section 28.** Sections 3 to 6 of this act, and the items of law 1088  
of which such sections are composed, are not subject to the 1089  
referendum. Therefore, under Ohio Constitution, Article II, 1090  
Section 1d and section 1.471 of the Revised Code, such sections, 1091  
and the items of law of which such sections are composed, go into 1092  
immediate effect when this act becomes law. 1093

**Section 29.** If any item of law that constitutes the whole or 1094  
part of a codified or uncodified section of law contained in this 1095  
act, or if any application of any item of law that constitutes the 1096  
whole or part of a codified or uncodified section of law contained 1097  
in this act, is held invalid, the invalidity does not affect other 1098  
items of law or applications of items of law that can be given 1099  
effect without the invalid item of law or application. To this 1100  
end, the items of law of which the codified and uncodified 1101  
sections of law contained in this act are composed, and their 1102  
applications, are independent and severable. 1103