

As Introduced

125th General Assembly
Regular Session
2003-2004

H. B. No. 95

Representative Calvert

A BILL

To amend sections 9.01, 9.83, 101.82, 102.02, 109.57, 109.572, 109.71, 117.45, 119.035, 121.04, 121.084, 122.011, 122.04, 122.08, 122.17, 122.25, 122.651, 122.658, 122.87, 122.88, 123.01, 124.03, 125.05, 125.15, 125.91, 125.92, 125.93, 125.95, 125.96, 125.98, 126.11, 127.16, 131.23, 131.35, 147.01, 147.37, 149.011, 149.33, 149.331, 149.332, 149.333, 149.34, 149.35, 153.65, 163.06, 164.27, 165.09, 173.14, 173.20, 173.21, 173.26, 173.55, 173.57, 175.03, 175.21, 175.22, 183.02, 183.28, 307.202, 307.86, 307.98, 307.981, 307.987, 311.17, 317.32, 319.302, 321.24, 323.01, 323.13, 323.152, 329.03, 329.04, 329.05, 329.051, 329.06, 340.03, 505.69, 715.013, 717.01, 718.01, 718.02, 718.03, 718.05, 901.17, 901.21, 902.11, 921.151, 927.69, 1309.109, 1321.21, 1333.99, 1501.04, 1502.02, 1503.011, 1503.05, 1503.99, 1509.06, 1509.08, 1513.02, 1513.07, 1513.13, 1513.131, 1513.14, 1513.16, 1514.021, 1514.071, 1514.09, 1514.10, 1519.05, 1521.06, 1521.063, 1531.26, 1533.08, 1533.10, 1533.101, 1533.11, 1533.111, 1533.112, 1533.12, 1533.13, 1533.151, 1533.19, 1533.23, 1533.301, 1533.32, 1533.35, 1533.40, 1533.54, 1533.631, 1533.632, 1533.71, 1533.82, 1561.31, 1561.35, 1561.351, 1561.51, 1563.13, 1563.42,

1702.59, 2101.16, 2117.06, 2117.25, 2151.3529, 26
2151.3530, 2151.83, 2151.84, 2305.234, 2329.66, 27
2505.13, 2715.041, 2715.045, 2716.13, 2743.02, 28
2915.01, 2921.13, 2925.44, 2933.43, 2935.01, 29
2949.091, 3111.04, 3111.72, 3119.01, 3123.952, 30
3125.12, 3125.25, 3301.33, 3301.52, 3301.53, 31
3301.54, 3301.55, 3301.57, 3301.58, 3301.80, 32
3301.801, 3313.979, 3314.074, 3316.08, 3317.012, 33
3317.013, 3317.022, 3317.023, 3317.024, 3317.029, 34
3317.0213, 3317.0217, 3317.03, 3317.032, 3317.05, 35
3317.06, 3317.064, 3317.07, 3317.10, 3317.11, 36
3317.16, 3317.50, 3317.51, 3319.22, 3319.235, 37
3323.16, 3332.04, 3333.12, 3383.01, 3383.07, 38
3501.18, 3501.30, 3505.08, 3517.092, 3701.021, 39
3701.022, 3701.141, 3701.145, 3702.31, 3702.68, 40
3702.74, 3705.23, 3705.24, 3709.09, 3710.05, 41
3711.021, 3721.02, 3721.19, 3721.56, 3722.15, 42
3722.16, 3727.17, 3733.43, 3733.45, 3734.02, 43
3734.05, 3734.12, 3734.123, 3734.124, 3734.18, 44
3734.28, 3734.42, 3734.44, 3734.46, 3734.57, 45
3735.67, 3735.671, 3737.81, 3745.04, 3745.11, 46
3745.14, 3745.40, 3746.13, 3747.16, 3748.07, 47
3748.13, 3770.07, 3770.10, 3770.99, 3773.33, 48
3773.43, 3781.19, 4104.01, 4104.02, 4104.04, 49
4104.06, 4104.07, 4104.08, 4104.15, 4104.18, 50
4104.19, 4104.20, 4104.41, 4104.44, 4104.45, 51
4104.46, 4105.17, 4112.15, 4115.03, 4117.02, 52
4117.10, 4117.14, 4123.27, 4123.41, 4141.04, 53
4141.09, 4141.23, 4301.12, 4301.30, 4301.42, 54
4301.43, 4303.02, 4303.021, 4303.03, 4303.04, 55
4303.05, 4303.06, 4303.07, 4303.08, 4303.09, 56
4303.10, 4303.11, 4303.12, 4303.121, 4303.13, 57
4303.14, 4303.141, 4303.15, 4303.151, 4303.16, 58

4303.17, 4303.171, 4303.18, 4303.181, 4303.182,	59
4303.183, 4303.184, 4303.19, 4303.20, 4303.201,	60
4303.202, 4303.203, 4303.204, 4303.21, 4303.22,	61
4303.23, 4303.231, 4305.01, 4503.06, 4505.06,	62
4509.60, 4511.75, 4707.071, 4707.072, 4707.10,	63
4709.12, 4717.07, 4717.09, 4719.01, 4723.06,	64
4723.08, 4723.082, 4725.44, 4725.45, 4725.48,	65
4725.50, 4725.51, 4725.52, 4725.57, 4731.65,	66
4731.71, 4734.15, 4736.12, 4741.17, 4743.05,	67
4747.05, 4747.06, 4747.07, 4747.10, 4751.06,	68
4751.07, 4759.08, 4771.22, 4779.08, 4779.17,	69
4779.18, 4903.24, 4905.79, 4905.91, 4919.79,	70
4931.45, 4931.47, 4931.48, 4973.17, 4981.01,	71
4981.03, 4981.031, 4981.032, 4981.033, 4981.04,	72
4981.06, 4981.07, 4981.08, 4981.09, 4981.091,	73
4981.10, 4981.11, 4981.12, 4981.13, 4981.131,	74
4981.14, 4981.15, 4981.16, 4981.17, 4981.18,	75
4981.19, 4981.20, 4981.21, 4981.22, 4981.23,	76
4981.25, 4981.26, 4981.28, 4981.29, 4981.30,	77
4981.31, 4981.32, 4981.33, 4981.34, 4981.35,	78
4981.361, 5101.11, 5101.14, 5101.141, 5101.142,	79
5101.144, 5101.145, 5101.146, 5101.16, 5101.162,	80
5101.18, 5101.181, 5101.21, 5101.211, 5101.212,	81
5101.22, 5101.24, 5101.36, 5101.58, 5101.59,	82
5101.60, 5101.61, 5101.611, 5101.62, 5101.63,	83
5101.65, 5101.67, 5101.68, 5101.69, 5101.70,	84
5101.75, 5101.80, 5101.83, 5101.97, 5101.99,	85
5103.031, 5103.033, 5103.034, 5103.036, 5103.037,	86
5103.038, 5103.0312, 5103.0313, 5103.0314,	87
5103.0315, 5103.0316, 5103.154, 5104.01, 5104.011,	88
5104.02, 5104.30, 5104.32, 5104.42, 5107.02,	89
5107.30, 5107.37, 5107.40, 5107.60, 5108.01,	90
5108.03, 5108.06, 5108.07, 5108.09, 5108.10,	91

5111.019, 5111.0112, 5111.02, 5111.021, 5111.022,	92
5111.03, 5111.06, 5111.111, 5111.17, 5111.171,	93
5111.20, 5111.204, 5111.21, 5111.22, 5111.231,	94
5111.25, 5111.252, 5111.26, 5111.263, 5111.28,	95
5111.29, 5111.30, 5111.31, 5111.32, 5111.33,	96
5111.34, 5111.85, 5111.87, 5111.872, 5111.94,	97
5111.99, 5112.03, 5112.08, 5112.17, 5112.31,	98
5112.99, 5115.01, 5115.02, 5115.03, 5115.04,	99
5115.05, 5115.07, 5115.10, 5115.11, 5115.13,	100
5115.15, 5115.20, 5119.61, 5119.611, 5123.01,	101
5123.051, 5123.19, 5123.61, 5123.801, 5126.042,	102
5126.12, 5126.31, 5139.36, 5139.87, 5153.16,	103
5153.163, 5153.60, 5153.69, 5153.72, 5153.78,	104
5310.15, 5501.03, 5502.13, 5519.01, 5703.054,	105
5703.19, 5705.19, 5707.03, 5709.01, 5709.20,	106
5709.21, 5709.22, 5709.25, 5709.26, 5709.27,	107
5709.62, 5709.63, 5709.632, 5709.64, 5709.67,	108
5709.84, 5711.02, 5711.13, 5711.22, 5711.27,	109
5711.33, 5713.07, 5713.08, 5713.081, 5713.082,	110
5715.27, 5715.39, 5717.02, 5717.03, 5719.07,	111
5725.01, 5725.14, 5725.25, 5725.26, 5727.01,	112
5727.06, 5727.111, 5727.15, 5727.24, 5727.25,	113
5727.26, 5727.27, 5727.28, 5727.30, 5727.32,	114
5727.33, 5727.38, 5727.56, 5728.04, 5728.99,	115
5733.01, 5733.04, 5733.042, 5733.05, 5733.051,	116
5733.056, 5733.057, 5733.059, 5733.06, 5733.065,	117
5733.066, 5733.069, 5733.09, 5733.18, 5733.22,	118
5733.33, 5733.39, 5733.40, 5733.45, 5733.98,	119
5735.05, 5735.14, 5735.15, 5735.19, 5735.23,	120
5735.26, 5735.291, 5735.30, 5735.99, 5739.01,	121
5739.011, 5739.02, 5739.03, 5739.071, 5739.12,	122
5739.17, 5739.33, 5741.01, 5741.02, 5743.02,	123
5743.32, 5745.01, 5745.02, 5745.04, 5747.01,	124

5747.02, 5747.022, 5747.025, 5747.05, 5747.057,	125
5747.08, 5747.09, 5747.30, 5747.98, 5748.01,	126
5749.02, 6101.09, 6109.21, 6111.044, 6111.06,	127
6115.09, 6301.05, and 6301.07; to amend, for the	128
purpose of adopting new section numbers as	129
indicated in parentheses, sections 3301.33	130
(3301.40), 3701.145 (3701.0210), 4104.46	131
(4104.48), 4981.01 (5507.01), 4981.03 (5507.03),	132
4981.031 (5507.031), 4981.032 (5507.032), 4981.033	133
(5507.033), 4981.04 (5507.04), 4981.05 (5507.05),	134
4981.06 (5507.06), 4981.07 (5507.07), 4981.08	135
(5507.08), 4981.09 (5507.09), 4981.091 (5507.091),	136
4981.10 (5507.10), 4981.11 (5507.11), 4981.12	137
(5507.12), 4981.13 (5507.13), 4981.131 (5507.131),	138
4981.14 (5507.14), 4981.15 (5507.15), 4981.16	139
(5507.16), 4981.17 (5507.17), 4981.18 (5507.18),	140
4981.19 (5507.19), 4981.20 (5507.20), 4981.21	141
(5507.21), 4981.22 (5507.22), 4981.23 (5507.23),	142
4981.25 (5507.25), 4981.26 (5507.26), 4981.28	143
(5507.28), 4981.29 (5507.29), 4981.30 (5507.30),	144
4981.31 (5507.31), 4981.32 (5507.32), 4981.33	145
(5507.33), 4981.34 (5507.34), 4981.35 (5507.35),	146
4981.36 (5507.36), 4981.361 (5507.361), 5101.211	147
(5101.212), 5101.212 (5101.213), 5108.06	148
(5108.04), 5108.07 (5108.05), 5111.08 (5111.071),	149
5111.16 (5111.08), 5111.25 (5111.27), 5111.252	150
(5123.199), 5111.26 (5111.23), 5111.263 (5111.30),	151
5111.29 (5111.31), 5111.30 (5111.224), 5111.31	152
(5111.222), 5111.32 (5111.223), 5111.33 (5111.29),	153
5115.02 (5115.04), 5115.04 (5115.02), 5115.07	154
(5115.06), 5115.13 (5115.07), and 5115.15	155
(5115.23); to enact new sections 718.11, 718.12,	156
3301.33, 4104.42, 4104.43, 4104.46, 5108.06,	157

5108.07, 5111.16, 5111.173, 5111.221, 5111.24,	158
5111.241, 5111.25, 5111.251, 5111.252, 5111.255,	159
5111.257, 5111.26, 5111.261, 5111.262, 5111.263,	160
5111.264, 5111.32, and 5733.052, and sections	161
122.90, 123.152, 123.153, 173.08, 305.28, 317.36,	162
319.63, 718.021, 718.031, 718.051, 718.111,	163
718.112, 927.701, 1503.50, 1503.51, 1503.52,	164
1503.53, 1503.54, 1503.55, 1503.56, 1503.57,	165
1503.58, 2113.041, 2117.061, 3123.97, 3301.31,	166
3301.34, 3301.35, 3301.36, 3301.37, 3314.083,	167
3701.029, 3702.63, 3721.561, 4104.47, 4115.17,	168
4115.18, 4115.19, 4115.20, 4707.24, 5101.1410,	169
5101.211, 5101.214, 5101.241, 5101.242, 5101.243,	170
5101.601, 5103.155, 5108.11, 5108.12, 5111.0113,	171
5111.025, 5111.172, 5111.174, 5111.175, 5111.176,	172
5111.177, 5111.206, 5111.211, 5111.253, 5111.254,	173
5111.256, 5111.265, 5111.266, 5111.267, 5111.268,	174
5111.269, 5111.2610, 5111.88, 5111.881, 5111.882,	175
5111.911, 5111.912, 5111.913, 5111.95, 5111.96,	176
5111.97, 5111.98, 5111.981, 5111.982, 5115.12,	177
5115.13, 5115.14, 5115.22, 5123.196, 5123.197,	178
5123.198, 5123.38, 5123.851, 5703.491, 5703.56,	179
5703.58, 5703.80, 5709.201, 5709.211, 5709.212,	180
5709.23, 5709.24, 5717.011, 5733.044, 5733.55,	181
5733.56, 5733.57, 5735.053, 5741.25, 5745.042, and	182
5745.044; and to repeal sections 122.12, 125.931,	183
125.932, 125.933, 125.934, 125.935, 131.38,	184
179.01, 179.02, 179.03, 179.04, 319.311, 718.11,	185
718.12, 1333.96, 1513.05, 1513.10, 1533.06,	186
1533.39, 1553.01, 1553.02, 1553.03, 1553.04,	187
1553.05, 1553.06, 1553.07, 1553.08, 1553.09,	188
1553.10, 1553.99, 3301.31, 3301.581, 3302.041,	189
3701.142, 3701.144, 4104.42, 4104.43, 4141.044,	190

4141.045, 5101.213, 5101.251, 5101.71, 5101.72,	191
5108.05, 5111.017, 5111.173, 5111.221, 5111.23,	192
5111.231, 5111.24, 5111.241, 5111.251, 5111.255,	193
5111.257, 5111.261, 5111.262, 5111.264, 5111.27,	194
5111.291, 5111.34, 5115.011, 5115.012, 5115.06,	195
5115.061, 5502.49, 5709.231, 5709.30, 5709.31,	196
5709.32, 5709.33, 5709.34, 5709.35, 5709.36,	197
5709.37, 5709.45, 5709.46, 5709.47, 5709.48,	198
5709.49, 5709.50, 5709.51, 5709.52, 5709.64,	199
5709.65, 5709.66, 5727.39, 5727.44, 5733.052,	200
5733.055, 5733.061, 5733.064, 5733.068, 5733.111,	201
5733.32, 5733.36, 5733.38, 5733.43, 5733.44,	202
5735.33, 5739.012, 5739.35, 5741.011, 5741.24,	203
5743.45, 5743.46, 5747.051, 5747.131, 5747.28,	204
5747.34, 5747.36, 5747.38, 5747.60, 6111.31,	205
6111.311, 6111.32, 6111.34, 6111.35, 6111.36,	206
6111.37, 6111.38, and 6111.39 of the Revised Code;	207
to amend Section 14 of Am. Sub. S.B. 242 of the	208
124th General Assembly; to amend Section 3 of Am.	209
Sub. H.B. 215 of the 122nd General Assembly, as	210
subsequently amended; to amend Section 3 of Am.	211
Sub. H.B. 621 of the 122nd General Assembly, as	212
subsequently amended; to amend Section 153 of Am.	213
Sub. H.B. 117 of the 121st General Assembly, as	214
subsequently amended; to amend Section 27 of Sub	215
H.B. 670 of the 121st General Assembly, as	216
subsequently amended; to amend Section 5 of Am.	217
Sub. S.B. 50 of the 121st General Assembly, as	218
subsequently amended; to repeal section 63.37 of	219
Am. Sub. H.B. 94 of the 124th General Assembly, as	220
subsequently amended; to repeal Section 129 of Am.	221
Sub. H.B. 283 of the 123rd General Assembly, as	222
subsequently amended; to repeal Section 3 of S.B.	223

238 of the 123rd General Assembly; and to repeal 224
Section 11 of Am. Sub. S.B. 50 of the 121st 225
General Assembly, as subsequently amended; to levy 226
taxes and provide for implementation of those 227
levies, to make operating appropriations for the 228
biennium beginning July 1, 2003, and ending June 229
30, 2005, and to provide authorization and 230
conditions for the operation of state programs; to 231
amend the version of section 921.22 of the Revised 232
Code that is scheduled to take effect July 1, 233
2004, to continue the provisions of this act on 234
and after that effective date; to amend the 235
version of section 3332.04 of the Revised Code 236
that is scheduled to take effect July 1, 2003; to 237
amend the version of section 4511.75 of the 238
Revised Code that is scheduled to take effect 239
January 1, 2004; to amend the versions of sections 240
5739.03, 5739.12, and 5741.02 of the Revised Code 241
that are scheduled to take effect July 1, 2003, to 242
continue certain provisions of this act on and 243
after that date. 244

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

Section 1. That sections 9.01, 9.83, 101.82, 102.02, 109.57, 245
109.572, 109.71, 117.45, 119.035, 121.04, 121.084, 122.011, 246
122.04, 122.08, 122.17, 122.25, 122.651, 122.658, 122.87, 122.88, 247
123.01, 124.03, 125.05, 125.15, 125.91, 125.92, 125.93, 125.95, 248
125.96, 125.98, 126.11, 127.16, 131.23, 131.35, 147.01, 147.37, 249
149.011, 149.33, 149.331, 149.332, 149.333, 149.34, 149.35, 250
153.65, 163.06, 164.27, 165.09, 173.14, 173.20, 173.21, 173.26, 251
173.55, 173.57, 175.03, 175.21, 175.22, 183.02, 183.28, 307.202, 252

307.86, 307.98, 307.981, 307.987, 311.17, 317.32, 319.302, 321.24,	253
323.01, 323.13, 323.152, 329.03, 329.04, 329.05, 329.051, 329.06,	254
340.03, 505.69, 715.013, 717.01, 718.01, 718.02, 718.03, 718.05,	255
901.17, 901.21, 902.11, 921.151, 927.69, 1309.109, 1321.21,	256
1333.99, 1501.04, 1502.02, 1503.011, 1503.05, 1503.99, 1509.06,	257
1509.08, 1513.02, 1513.07, 1513.13, 1513.131, 1513.14, 1513.16,	258
1514.021, 1514.071, 1514.09, 1514.10, 1519.05, 1521.06, 1521.063,	259
1531.26, 1533.08, 1533.10, 1533.101, 1533.11, 1533.111, 1533.112,	260
1533.12, 1533.13, 1533.151, 1533.19, 1533.23, 1533.301, 1533.32,	261
1533.35, 1533.40, 1533.54, 1533.631, 1533.632, 1533.71, 1533.82,	262
1561.31, 1561.35, 1561.351, 1561.51, 1563.13, 1563.42, 1702.59,	263
2101.16, 2117.06, 2117.25, 2151.3529, 2151.3530, 2151.83, 2151.84,	264
2305.234, 2329.66, 2505.13, 2715.041, 2715.045, 2716.13, 2743.02,	265
2915.01, 2921.13, 2925.44, 2933.43, 2935.01, 2949.091, 3111.04,	266
3111.72, 3119.01, 3123.952, 3125.12, 3125.25, 3301.33, 3301.52,	267
3301.53, 3301.54, 3301.55, 3301.57, 3301.58, 3301.80, 3301.801,	268
3313.979, 3314.074, 3316.08, 3317.012, 3317.013, 3317.022,	269
3317.023, 3317.024, 3317.029, 3317.0213, 3317.0217, 3317.03,	270
3317.032, 3317.05, 3317.06, 3317.064, 3317.07, 3317.10, 3317.11,	271
3317.16, 3317.50, 3317.51, 3319.22, 3319.235, 3323.16, 3332.04,	272
3333.12, 3383.01, 3383.07, 3501.18, 3501.30, 3505.08, 3517.092,	273
3701.021, 3701.022, 3701.141, 3701.145, 3702.31, 3702.68, 3702.74,	274
3705.23, 3705.24, 3709.09, 3710.05, 3711.021, 3721.02, 3721.19,	275
3721.56, 3722.15, 3722.16, 3727.17, 3733.43, 3733.45, 3734.02,	276
3734.05, 3734.12, 3734.123, 3734.124, 3734.18, 3734.28, 3734.42,	277
3734.44, 3734.46, 3734.57, 3735.67, 3735.671, 3737.81, 3745.04,	278
3745.11, 3745.14, 3745.40, 3746.13, 3747.16, 3748.07, 3748.13,	279
3770.07, 3770.10, 3770.99, 3773.33, 3773.43, 3781.19, 4104.01,	280
4104.02, 4104.04, 4104.06, 4104.07, 4104.08, 4104.15, 4104.18,	281
4104.19, 4104.20, 4104.41, 4104.44, 4104.45, 4104.46, 4105.17,	282
4112.15, 4115.03, 4117.02, 4117.10, 4117.14, 4123.27, 4123.41,	283
4141.04, 4141.09, 4141.23, 4301.12, 4301.30, 4301.42, 4301.43,	284
4303.02, 4303.021, 4303.03, 4303.04, 4303.05, 4303.06, 4303.07,	285

4303.08, 4303.09, 4303.10, 4303.11, 4303.12, 4303.121, 4303.13,	286
4303.14, 4303.141, 4303.15, 4303.151, 4303.16, 4303.17, 4303.171,	287
4303.18, 4303.181, 4303.182, 4303.183, 4303.184, 4303.19, 4303.20,	288
4303.201, 4303.202, 4303.203, 4303.204, 4303.21, 4303.22, 4303.23,	289
4303.231, 4305.01, 4503.06, 4505.06, 4509.60, 4511.75, 4707.071,	290
4707.072, 4707.10, 4709.12, 4717.07, 4717.09, 4719.01, 4723.06,	291
4723.08, 4723.082, 4725.44, 4725.45, 4725.48, 4725.50, 4725.51,	292
4725.52, 4725.57, 4731.65, 4731.71, 4734.15, 4736.12, 4741.17,	293
4743.05, 4747.05, 4747.06, 4747.07, 4747.10, 4751.06, 4751.07,	294
4759.08, 4771.22, 4779.08, 4779.17, 4779.18, 4903.24, 4905.79,	295
4905.91, 4919.79, 4931.45, 4931.47, 4931.48, 4973.17, 4981.01,	296
4981.03, 4981.031, 4981.032, 4981.033, 4981.04, 4981.06, 4981.07,	297
4981.08, 4981.09, 4981.091, 4981.10, 4981.11, 4981.12, 4981.13,	298
4981.131, 4981.14, 4981.15, 4981.16, 4981.17, 4981.18, 4981.19,	299
4981.20, 4981.21, 4981.22, 4981.23, 4981.25, 4981.26, 4981.28,	300
4981.29, 4981.30, 4981.31, 4981.32, 4981.33, 4981.34, 4981.35,	301
4981.361, 5101.11, 5101.14, 5101.141, 5101.142, 5101.144,	302
5101.145, 5101.146, 5101.16, 5101.162, 5101.18, 5101.181, 5101.21,	303
5101.211, 5101.212, 5101.22, 5101.24, 5101.36, 5101.58, 5101.59,	304
5101.60, 5101.61, 5101.611, 5101.62, 5101.63, 5101.65, 5101.67,	305
5101.68, 5101.69, 5101.70, 5101.75, 5101.80, 5101.83, 5101.97,	306
5101.99, 5103.031, 5103.033, 5103.034, 5103.036, 5103.037,	307
5103.038, 5103.0312, 5103.0313, 5103.0314, 5103.0315, 5103.0316,	308
5103.154, 5104.01, 5104.011, 5104.02, 5104.30, 5104.32, 5104.42,	309
5107.02, 5107.30, 5107.37, 5107.40, 5107.60, 5108.01, 5108.03,	310
5108.06, 5108.07, 5108.09, 5108.10, 5111.019, 5111.0112, 5111.02,	311
5111.021, 5111.022, 5111.03, 5111.06, 5111.111, 5111.17, 5111.171,	312
5111.20, 5111.204, 5111.21, 5111.22, 5111.231, 5111.25, 5111.252,	313
5111.26, 5111.263, 5111.28, 5111.29, 5111.30, 5111.31, 5111.32,	314
5111.33, 5111.34, 5111.85, 5111.87, 5111.872, 5111.94, 5111.99,	315
5112.03, 5112.08, 5112.17, 5112.31, 5112.99, 5115.01, 5115.02,	316
5115.03, 5115.04, 5115.05, 5115.07, 5115.10, 5115.11, 5115.13,	317
5115.15, 5115.20, 5119.61, 5119.611, 5123.01, 5123.051, 5123.19,	318

5123.61, 5123.801, 5126.042, 5126.12, 5126.31, 5139.36, 5139.87, 319
5153.16, 5153.163, 5153.60, 5153.69, 5153.72, 5153.78, 5310.15, 320
5501.03, 5502.13, 5519.01, 5703.054, 5703.19, 5705.19, 5707.03, 321
5709.01, 5709.20, 5709.21, 5709.22, 5709.25, 5709.26, 5709.27, 322
5709.62, 5709.63, 5709.632, 5709.64, 5709.67, 5709.84, 5711.02, 323
5711.13, 5711.22, 5711.27, 5711.33, 5713.07, 5713.08, 5713.081, 324
5713.082, 5715.27, 5715.39, 5717.02, 5717.03, 5719.07, 5725.01, 325
5725.14, 5725.25, 5725.26, 5727.01, 5727.06, 5727.111, 5727.15, 326
5727.24, 5727.25, 5727.26, 5727.27, 5727.28, 5727.30, 5727.32, 327
5727.33, 5727.38, 5727.56, 5728.04, 5728.99, 5733.01, 5733.04, 328
5733.042, 5733.05, 5733.051, 5733.056, 5733.057, 5733.059, 329
5733.06, 5733.065, 5733.066, 5733.069, 5733.09, 5733.18, 5733.22, 330
5733.33, 5733.39, 5733.40, 5733.45, 5733.98, 5735.05, 5735.14, 331
5735.15, 5735.19, 5735.23, 5735.26, 5735.291, 5735.30, 5735.99, 332
5739.01, 5739.011, 5739.02, 5739.03, 5739.071, 5739.12, 5739.17, 333
5739.33, 5741.01, 5741.02, 5743.02, 5743.32, 5745.01, 5745.02, 334
5745.04, 5747.01, 5747.02, 5747.022, 5747.025, 5747.05, 5747.057, 335
5747.08, 5747.09, 5747.30, 5747.98, 5748.01, 5749.02, 6101.09, 336
6109.21, 6111.044, 6111.06, 6115.09, 6301.05, and 6301.07 be 337
amended; that sections 3301.33 (3301.40), 3701.145 (3701.0210), 338
4104.46 (4104.48), 4981.01 (5507.01), 4981.03 (5507.03), 4981.031 339
(5507.031), 4981.032 (5507.032), 4981.033 (5507.033), 4981.04 340
(5507.04), 4981.05 (5507.05), 4981.06 (5507.06), 4981.07 341
(5507.07), 4981.08 (5507.08), 4981.09 (5507.09), 4981.091 342
(5507.091), 4981.10 (5507.10), 4981.11 (5507.11), 4981.12 343
(5507.12), 4981.13 (5507.13), 4981.131 (5507.131), 4981.14 344
(5507.14), 4981.15 (5507.15), 4981.16 (5507.16), 4981.17 345
(5507.17), 4981.18 (5507.18), 4981.19 (5507.19), 4981.20 346
(5507.20), 4981.21 (5507.21), 4981.22 (5507.22), 4981.23 347
(5507.23), 4981.25 (5507.25), 4981.26 (5507.26), 4981.28 348
(5507.28), 4981.29 (5507.29), 4981.30 (5507.30), 4981.31 349
(5507.31), 4981.32 (5507.32), 4981.33 (5507.33), 4981.34 350
(5507.34), 4981.35 (5507.35), 4981.36 (5507.36), 4981.361 351

(5507.361), 5101.211 (5101.212), 5101.212 (5101.213), 5108.06 352
(5108.04), 5108.07 (5108.05), 5111.08 (5111.071), 5111.16 353
(5111.08), 5111.25 (5111.27), 5111.252 (5123.199), 5111.26 354
(5111.23), 5111.263 (5111.30), 5111.29 (5111.31), 5111.30 355
(5111.224), 5111.31 (5111.222), 5111.32 (5111.223), 5111.33 356
(5111.29), 5115.02 (5115.04), 5115.04 (5115.02), 5115.07 357
(5115.06), 5115.13 (5115.07), and 5115.15 (5115.23) be amended for 358
the purpose of adopting new section numbers as indicated in 359
parentheses; that new sections 718.11, 718.12, 3301.33, 4104.42, 360
4104.43, 4104.46, 5108.06, 5108.07, 5111.16, 5111.173, 5111.221, 361
5111.24, 5111.241, 5111.25, 5111.251, 5111.252, 5111.255, 362
5111.257, 5111.26, 5111.261, 5111.262, 5111.263, 5111.264, 363
5111.32, and 5733.052, and sections 122.90, 123.152, 123.153, 364
173.08, 305.28, 317.36, 319.63, 718.021, 718.031, 718.051, 365
718.111, 718.112, 927.701, 1503.50, 1503.51, 1503.52, 1503.53, 366
1503.54, 1503.55, 1503.56, 1503.57, 1503.58, 2113.041, 2117.061, 367
3123.97, 3301.31, 3301.34, 3301.35, 3301.36, 3301.37, 3314.083, 368
3701.029, 3702.63, 3721.561, 4104.47, 4115.17, 4115.18, 4115.19, 369
4115.20, 4707.24, 5101.1410, 5101.211, 5101.214, 5101.241, 370
5101.242, 5101.243, 5101.601, 5103.155, 5108.11, 5108.12, 371
5111.0113, 5111.025, 5111.172, 5111.174, 5111.175, 5111.176, 372
5111.177, 5111.206, 5111.211, 5111.253, 5111.254, 5111.256, 373
5111.265, 5111.266, 5111.267, 5111.268, 5111.269, 5111.2610, 374
5111.88, 5111.881, 5111.882, 5111.911, 5111.912, 5111.913, 375
5111.95, 5111.96, 5111.97, 5111.98, 5111.981, 5111.982, 5115.12, 376
5115.13, 5115.14, 5115.22, 5123.196, 5123.197, 5123.198, 5123.38, 377
5123.851, 5703.491, 5703.56, 5703.58, 5703.80, 5709.201, 5709.211, 378
5709.212, 5709.23, 5709.24, 5717.011, 5733.044, 5733.55, 5733.56, 379
5733.57, 5735.053, 5741.25, 5745.042, and 5745.044 of the Revised 380
Code be enacted to read as follows: 381

Sec. 9.01. When any officer, office, court, commission, 382
board, institution, department, agent, or employee of the state, 383

~~or~~ of a county, or of any other political subdivision, who is 384
charged with the duty or authorized or required by law to record, 385
preserve, keep, maintain, or file any record, document, plat, 386
court file, paper, or instrument in writing, or to make or furnish 387
copies of any ~~thereof~~ of them, deems it necessary or advisable, 388
when recording ~~any such document, plat, court file, paper, or~~ 389
~~instrument in writing~~, or ~~when~~ making a copy or reproduction of 390
any ~~thereof~~ of them or of any such record, for the purpose of 391
recording or copying, preserving, and protecting ~~the same~~ them, 392
reducing space required for storage, or any similar purpose, to do 393
so by means of any photostatic, photographic, miniature 394
photographic, film, microfilm, or microphotographic process, or 395
perforated tape, magnetic tape, other magnetic means, electronic 396
data processing, machine readable means, or graphic or video 397
display, or any combination ~~thereof~~ of those processes, means, or 398
displays, which correctly and accurately copies, records, or 399
reproduces, or provides a medium of copying, recording, or 400
reproducing, the original record, document, plat, court file, 401
paper, or instrument in writing, such use of any ~~such photographic~~ 402
~~or electromagnetic~~ of those processes, means, or displays for any 403
such purpose, ~~is hereby authorized~~. Any such records, copies, or 404
reproductions may be made in duplicate, and ~~such the~~ the duplicates 405
shall be stored in different buildings. The film or paper used for 406
~~this a~~ a process shall comply with the minimum standards of quality 407
approved for permanent photographic records by the national bureau 408
of standards. All such records, copies, or reproductions shall 409
carry a certificate of authenticity and completeness, on a form 410
specified by the director of administrative services through the 411
state records ~~administrator~~ program. 412

Any such officer, office, court, commission, board, 413
institution, department, agent, or employee of the state, of a 414
county, or of any other political subdivision may purchase or rent 415
required equipment for any such photographic process and may enter 416

into contracts with private concerns or other governmental 417
agencies for the development of film and the making of 418
reproductions ~~thereof~~ of film as a part of any such photographic 419
process. When so recorded, or copied or reproduced to reduce space 420
required for storage or filing of such records, ~~said such~~ 421
photographs, microphotographs, microfilms, perforated tape, 422
magnetic tape, other magnetic means, electronic data processing, 423
machine readable means, graphic or video display, or ~~any~~ 424
combination ~~thereof~~ of these processes, means, or displays, or 425
films, or prints made therefrom, when properly identified by the 426
officer by whom or under whose supervision ~~the same~~ they were 427
made, or who has ~~the~~ their custody ~~thereof~~, have the same effect 428
at law as the original record or of a record made by any other 429
legally authorized means, and may be offered in like manner and 430
shall be received in evidence in any court where ~~such~~ the original 431
record, or record made by other legally authorized means, could 432
have been so introduced and received. Certified or authenticated 433
copies or prints of such photographs, microphotographs, films, 434
microfilms, perforated tape, magnetic tape, other magnetic means, 435
electronic data processing, machine readable means, graphic or 436
video display, or ~~any~~ combination ~~thereof~~ of these processes, 437
means, or displays, shall be admitted in evidence equally with the 438
original ~~photographs, microphotographs, films, or microfilms.~~ 439

Such photographs, microphotographs, microfilms, or films 440
shall be placed and kept in conveniently accessible, fireproof, 441
and insulated files, cabinets, or containers, and provisions shall 442
be made for preserving, safekeeping, using, examining, exhibiting, 443
projecting, and enlarging ~~the same~~ them whenever requested, during 444
office hours. 445

All persons utilizing the methods described in this section 446
for keeping records and information shall keep and make readily 447
available to the public the machines and equipment necessary to 448

reproduce the records and information in a readable form. 449

Sec. 9.83. (A) The state and any political subdivision may 450
procure a policy or policies of insurance insuring its officers 451
and employees against liability for injury, death, or loss to 452
person or property that arises out of the operation of an 453
automobile, truck, motor vehicle with auxiliary equipment, 454
self-propelling equipment or trailer, aircraft, or watercraft by 455
the officers or employees while engaged in the course of their 456
employment or official responsibilities for the state or the 457
political subdivision. The state is authorized to expend funds to 458
pay judgments that are rendered in any court against its officers 459
or employees and that result from such operation, and is 460
authorized to expend funds to compromise claims for liability 461
against its officers or employees that result from such operation. 462
No insurer shall deny coverage under such a policy, and the state 463
shall not refuse to pay judgments or compromise claims, on the 464
ground that an automobile, truck, motor vehicle with auxiliary 465
equipment, self-propelling equipment or trailer, aircraft, or 466
watercraft was not being used in the course of an officer's or 467
employee's employment or official responsibilities for the state 468
or a political subdivision unless the officer or employee who was 469
operating an automobile, truck, motor vehicle with auxiliary 470
equipment, or self-propelling equipment or trailer is convicted of 471
a violation of section 124.71 of the Revised Code as a result of 472
the same events. 473

(B) ~~Such funds~~ Funds shall be reserved as ~~are~~ necessary, in 474
the exercise of sound and prudent actuarial judgment, to cover 475
potential expense, fees, damage, loss, or other liability. The 476
superintendent of insurance may recommend or, if the state 477
requests of the superintendent, shall recommend, a specific amount 478
for any period of time that, in the superintendent's opinion, 479
represents such a judgment. 480

(C) Nothing in this section shall be construed to require the department of administrative services to purchase liability insurance for all state vehicles in a single policy of insurance or to cover all state vehicles under a single plan of self-insurance.

(D) Insurance procured by the state pursuant to this section shall be procured as provided in section 125.03 of the Revised Code.

(E) For purposes of liability insurance procured under this section to cover the operation of a motor vehicle by a prisoner for whom the insurance is procured, "employee" includes a prisoner in the custody of the department of rehabilitation and correction who is enrolled in a work program that is established by the department pursuant to section 5145.16 of the Revised Code and in which the prisoner is required to operate a motor vehicle, as defined in section 4509.01 of the Revised Code, and who is engaged in the operation of a motor vehicle in the course of the work program.

(F) There is hereby created in the state treasury the vehicle liability fund. All contributions collected by the director of administrative services under division (I) of this section shall be deposited into the fund. The fund shall be used to provide insurance and self-insurance for the state under this section. All investment earnings of the fund shall be credited to it.

(G) The director of administrative services, through the office of risk management, shall operate the vehicle liability fund on an actuarially sound basis.

(H) Reserves shall be maintained in the vehicle liability fund in any amount that is necessary and adequate, in the exercise of sound and prudent actuarial judgment, to cover potential liability claims, expenses, fees, or damages. Money in the fund

may be applied to the payment of liability claims that are filed 512
against the state in the court of claims and determined in the 513
manner provided in Chapter 2743. of the Revised Code. The director 514
of administrative services may procure the services of a qualified 515
actuarial firm for the purpose of recommending the specific amount 516
of money that is required to maintain adequate reserves for a 517
specified period of time. 518

(I) The director of administrative services shall collect 519
from each state agency or any participating state body its 520
contribution to the vehicle liability fund for the purpose of 521
purchasing insurance or administering self-insurance programs for 522
coverage authorized under this section. The amount of the 523
contribution shall be determined by the director, with the 524
approval of the director of budget and management. It shall be 525
based upon actuarial assumptions and the relative risk and loss 526
experience of each state agency or participating state body. The 527
amount of the contribution also shall include a reasonable sum to 528
cover administrative costs of the department of administrative 529
services. 530

Sec. 101.82. As used in sections 101.82 to 101.87 of the 531
Revised Code: 532

(A) "Agency" means any board, commission, committee, or 533
council, or any other similar state public body required to be 534
established pursuant to state statutes for the exercise of any 535
function of state government and to which members are appointed or 536
elected. "Agency" does not include the following: 537

(1) The general assembly, or any commission, committee, or 538
other body composed entirely of members ~~thereof~~ of the general 539
assembly; 540

(2) Any court; 541

(3) Any public body created by or directly pursuant to the constitution of this state;	542 543
(4) The board of trustees of any institution of higher education financially supported in whole or in part by the state;	544 545
(5) Any public body that has the authority to issue bonds or notes or that has issued bonds or notes that have not been fully repaid;	546 547 548
(6) The public utilities commission of Ohio;	549
(7) The consumers' council governing board;	550
(8) The Ohio board of regents;	551
(9) Any state board or commission that has the authority to issue any final adjudicatory order that may be appealed to the court of common pleas under Chapter 119. of the Revised Code;	552 553 554
(10) Any board of elections;	555
(11) The board of directors of the Ohio insurance guaranty association and the board of governors of the Ohio fair plan underwriting association;	556 557 558
(12) The Ohio public employees deferred compensation board;	559
(13) The Ohio retirement study council;	560
(14) The board of trustees of the Ohio police and fire pension fund, public employees retirement board, school employees retirement board, state highway patrol retirement board, and state teachers retirement board;	561 562 563 564
(15) The industrial commission.	565
(B) "Abolish" means to repeal the statutes creating and empowering an agency, remove its personnel, and transfer its records to the department of administrative services pursuant to division (H) <u>(E)</u> of section 149.331 of the Revised Code.	566 567 568 569

(C) "Terminate" means to amend or repeal the statutes 570
creating and empowering an agency, remove its personnel, and 571
reassign its functions and records to another agency or officer 572
designated by the general assembly. 573

(D) "Transfer" means to amend the statutes creating and 574
empowering an agency so that its functions, records, and personnel 575
are conveyed to another agency or officer. 576

(E) "Renew" means to continue an agency, and may include 577
amendment of the statutes creating and empowering the agency, or 578
recommendations for changes in agency operation or personnel. 579

Sec. 102.02. (A) Except as otherwise provided in division (H) 580
of this section, every person who is elected to or is a candidate 581
for a state, county, or city office, or the office of member of 582
the United States congress, and every person who is appointed to 583
fill a vacancy for an unexpired term in such an elective office; 584
all members of the state board of education; the director, 585
assistant directors, deputy directors, division chiefs, or persons 586
of equivalent rank of any administrative department of the state; 587
the president or other chief administrative officer of every state 588
institution of higher education as defined in section 3345.011 of 589
the Revised Code; the chief executive officer of each state 590
retirement system; all members of the board of commissioners on 591
grievances and discipline of the supreme court and the ethics 592
commission created under section 102.05 of the Revised Code; every 593
business manager, treasurer, or superintendent of a city, local, 594
exempted village, joint vocational, or cooperative education 595
school district or an educational service center; every person who 596
is elected to or is a candidate for the office of member of a 597
board of education of a city, local, exempted village, joint 598
vocational, or cooperative education school district or of a 599
governing board of an educational service center that has a total 600

student count of twelve thousand or more as most recently 601
determined by the department of education pursuant to section 602
3317.03 of the Revised Code; every person who is appointed to the 603
board of education of a municipal school district pursuant to 604
division (B) or (F) of section 3311.71 of the Revised Code; all 605
members of the board of directors of a sanitary district 606
established under Chapter 6115. of the Revised Code and organized 607
wholly for the purpose of providing a water supply for domestic, 608
municipal, and public use that includes two municipal corporations 609
in two counties; every public official or employee who is paid a 610
salary or wage in accordance with schedule C of section 124.15 or 611
schedule E-2 of section 124.152 of the Revised Code; members of 612
the board of trustees and the executive director of the tobacco 613
use prevention and control foundation; members of the board of 614
trustees and the executive director of the southern Ohio 615
agricultural and community development foundation; and every other 616
public official or employee who is designated by the appropriate 617
ethics commission pursuant to division (B) of this section shall 618
file with the appropriate ethics commission on a form prescribed 619
by the commission, a statement disclosing all of the following: 620

(1) The name of the person filing the statement and each 621
member of the person's immediate family and all names under which 622
the person or members of the person's immediate family do 623
business; 624

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 625
and except as otherwise provided in section 102.022 of the Revised 626
Code, identification of every source of income, other than income 627
from a legislative agent identified in division (A)(2)(b) of this 628
section, received during the preceding calendar year, in the 629
person's own name or by any other person for the person's use or 630
benefit, by the person filing the statement, and a brief 631
description of the nature of the services for which the income was 632

received. If the person filing the statement is a member of the 633
general assembly, the statement shall identify the amount of every 634
source of income received in accordance with the following ranges 635
of amounts: zero or more, but less than one thousand dollars; one 636
thousand dollars or more, but less than ten thousand dollars; ten 637
thousand dollars or more, but less than twenty-five thousand 638
dollars; twenty-five thousand dollars or more, but less than fifty 639
thousand dollars; fifty thousand dollars or more, but less than 640
one hundred thousand dollars; and one hundred thousand dollars or 641
more. Division (A)(2)(a) of this section shall not be construed to 642
require a person filing the statement who derives income from a 643
business or profession to disclose the individual items of income 644
that constitute the gross income of that business or profession, 645
except for those individual items of income that are attributable 646
to the person's or, if the income is shared with the person, the 647
partner's, solicitation of services or goods or performance, 648
arrangement, or facilitation of services or provision of goods on 649
behalf of the business or profession of clients, including 650
corporate clients, who are legislative agents as defined in 651
section 101.70 of the Revised Code. A person who files the 652
statement under this section shall disclose the identity of and 653
the amount of income received from a person who the public 654
official or employee knows or has reason to know is doing or 655
seeking to do business of any kind with the public official's or 656
employee's agency. 657

(b) If the person filing the statement is a member of the 658
general assembly, the statement shall identify every source of 659
income and the amount of that income that was received from a 660
legislative agent, as defined in section 101.70 of the Revised 661
Code, during the preceding calendar year, in the person's own name 662
or by any other person for the person's use or benefit, by the 663
person filing the statement, and a brief description of the nature 664
of the services for which the income was received. Division 665

(A)(2)(b) of this section requires the disclosure of clients of 666
attorneys or persons licensed under section 4732.12 of the Revised 667
Code, or patients of persons certified under section 4731.14 of 668
the Revised Code, if those clients or patients are legislative 669
agents. Division (A)(2)(b) of this section requires a person 670
filing the statement who derives income from a business or 671
profession to disclose those individual items of income that 672
constitute the gross income of that business or profession that 673
are received from legislative agents. 674

(c) Except as otherwise provided in division (A)(2)(c) of 675
this section, division (A)(2)(a) of this section applies to 676
attorneys, physicians, and other persons who engage in the 677
practice of a profession and who, pursuant to a section of the 678
Revised Code, the common law of this state, a code of ethics 679
applicable to the profession, or otherwise, generally are required 680
not to reveal, disclose, or use confidences of clients, patients, 681
or other recipients of professional services except under 682
specified circumstances or generally are required to maintain 683
those types of confidences as privileged communications except 684
under specified circumstances. Division (A)(2)(a) of this section 685
does not require an attorney, physician, or other professional 686
subject to a confidentiality requirement as described in division 687
(A)(2)(c) of this section to disclose the name, other identity, or 688
address of a client, patient, or other recipient of professional 689
services if the disclosure would threaten the client, patient, or 690
other recipient of professional services, would reveal details of 691
the subject matter for which legal, medical, or professional 692
advice or other services were sought, or would reveal an otherwise 693
privileged communication involving the client, patient, or other 694
recipient of professional services. Division (A)(2)(a) of this 695
section does not require an attorney, physician, or other 696
professional subject to a confidentiality requirement as described 697
in division (A)(2)(c) of this section to disclose in the brief 698

description of the nature of services required by division 699
(A)(2)(a) of this section any information pertaining to specific 700
professional services rendered for a client, patient, or other 701
recipient of professional services that would reveal details of 702
the subject matter for which legal, medical, or professional 703
advice was sought or would reveal an otherwise privileged 704
communication involving the client, patient, or other recipient of 705
professional services. 706

(3) The name of every corporation on file with the secretary 707
of state that is incorporated in this state or holds a certificate 708
of compliance authorizing it to do business in this state, trust, 709
business trust, partnership, or association that transacts 710
business in this state in which the person filing the statement or 711
any other person for the person's use and benefit had during the 712
preceding calendar year an investment of over one thousand dollars 713
at fair market value as of the thirty-first day of December of the 714
preceding calendar year, or the date of disposition, whichever is 715
earlier, or in which the person holds any office or has a 716
fiduciary relationship, and a description of the nature of the 717
investment, office, or relationship. Division (A)(3) of this 718
section does not require disclosure of the name of any bank, 719
savings and loan association, credit union, or building and loan 720
association with which the person filing the statement has a 721
deposit or a withdrawable share account. 722

(4) All fee simple and leasehold interests to which the 723
person filing the statement holds legal title to or a beneficial 724
interest in real property located within the state, excluding the 725
person's residence and property used primarily for personal 726
recreation; 727

(5) The names of all persons residing or transacting business 728
in the state to whom the person filing the statement owes, in the 729
person's own name or in the name of any other person, more than 730

one thousand dollars. Division (A)(5) of this section shall not be 731
construed to require the disclosure of debts owed by the person 732
resulting from the ordinary conduct of a business or profession or 733
debts on the person's residence or real property used primarily 734
for personal recreation, except that the superintendent of 735
financial institutions shall disclose the names of all 736
state-chartered savings and loan associations and of all service 737
corporations subject to regulation under division (E)(2) of 738
section 1151.34 of the Revised Code to whom the superintendent in 739
the superintendent's own name or in the name of any other person 740
owes any money, and that the superintendent and any deputy 741
superintendent of banks shall disclose the names of all 742
state-chartered banks and all bank subsidiary corporations subject 743
to regulation under section 1109.44 of the Revised Code to whom 744
the superintendent or deputy superintendent owes any money. 745

(6) The names of all persons residing or transacting business 746
in the state, other than a depository excluded under division 747
(A)(3) of this section, who owe more than one thousand dollars to 748
the person filing the statement, either in the person's own name 749
or to any person for the person's use or benefit. Division (A)(6) 750
of this section shall not be construed to require the disclosure 751
of clients of attorneys or persons licensed under section 4732.12 752
or 4732.15 of the Revised Code, or patients of persons certified 753
under section 4731.14 of the Revised Code, nor the disclosure of 754
debts owed to the person resulting from the ordinary conduct of a 755
business or profession. 756

(7) Except as otherwise provided in section 102.022 of the 757
Revised Code, the source of each gift of over seventy-five 758
dollars, or of each gift of over twenty-five dollars received by a 759
member of the general assembly from a legislative agent, received 760
by the person in the person's own name or by any other person for 761
the person's use or benefit during the preceding calendar year, 762

except gifts received by will or by virtue of section 2105.06 of 763
the Revised Code, or received from spouses, parents, grandparents, 764
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 765
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 766
fathers-in-law, mothers-in-law, or any person to whom the person 767
filing the statement stands in loco parentis, or received by way 768
of distribution from any inter vivos or testamentary trust 769
established by a spouse or by an ancestor; 770

(8) Except as otherwise provided in section 102.022 of the 771
Revised Code, identification of the source and amount of every 772
payment of expenses incurred for travel to destinations inside or 773
outside this state that is received by the person in the person's 774
own name or by any other person for the person's use or benefit 775
and that is incurred in connection with the person's official 776
duties, except for expenses for travel to meetings or conventions 777
of a national or state organization to which any state agency, 778
including, but not limited to, any legislative agency or state 779
institution of higher education as defined in section 3345.011 of 780
the Revised Code, pays membership dues, or any political 781
subdivision or any office or agency of a political subdivision 782
pays membership dues; 783

(9) Except as otherwise provided in section 102.022 of the 784
Revised Code, identification of the source of payment of expenses 785
for meals and other food and beverages, other than for meals and 786
other food and beverages provided at a meeting at which the person 787
participated in a panel, seminar, or speaking engagement or at a 788
meeting or convention of a national or state organization to which 789
any state agency, including, but not limited to, any legislative 790
agency or state institution of higher education as defined in 791
section 3345.011 of the Revised Code, pays membership dues, or any 792
political subdivision or any office or agency of a political 793
subdivision pays membership dues, that are incurred in connection 794

with the person's official duties and that exceed one hundred 795
dollars aggregated per calendar year; 796

(10) If the financial disclosure statement is filed by a 797
public official or employee described in division (B)(2) of 798
section 101.73 of the Revised Code or division (B)(2) of section 799
121.63 of the Revised Code who receives a statement from a 800
legislative agent, executive agency lobbyist, or employer that 801
contains the information described in division (F)(2) of section 802
101.73 of the Revised Code or division (G)(2) of section 121.63 of 803
the Revised Code, all of the nondisputed information contained in 804
the statement delivered to that public official or employee by the 805
legislative agent, executive agency lobbyist, or employer under 806
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 807
the Revised Code. As used in division (A)(10) of this section, 808
"legislative agent," "executive agency lobbyist," and "employer" 809
have the same meanings as in sections 101.70 and 121.60 of the 810
Revised Code. 811

A person may file a statement required by this section in 812
person or by mail. A person who is a candidate for elective office 813
shall file the statement no later than the thirtieth day before 814
the primary, special, or general election at which the candidacy 815
is to be voted on, whichever election occurs soonest, except that 816
a person who is a write-in candidate shall file the statement no 817
later than the twentieth day before the earliest election at which 818
the person's candidacy is to be voted on. A person who holds 819
elective office shall file the statement on or before the 820
fifteenth day of April of each year unless the person is a 821
candidate for office. A person who is appointed to fill a vacancy 822
for an unexpired term in an elective office shall file the 823
statement within fifteen days after the person qualifies for 824
office. Other persons shall file an annual statement on or before 825
the fifteenth day of April or, if appointed or employed after that 826

date, within ninety days after appointment or employment. No 827
person shall be required to file with the appropriate ethics 828
commission more than one statement or pay more than one filing fee 829
for any one calendar year. 830

The appropriate ethics commission, for good cause, may extend 831
for a reasonable time the deadline for filing a statement under 832
this section. 833

A statement filed under this section is subject to public 834
inspection at locations designated by the appropriate ethics 835
commission except as otherwise provided in this section. 836

(B) The Ohio ethics commission, the joint legislative ethics 837
committee, and the board of commissioners on grievances and 838
discipline of the supreme court, using the rule-making procedures 839
of Chapter 119. of the Revised Code, may require any class of 840
public officials or employees under its jurisdiction and not 841
specifically excluded by this section whose positions involve a 842
substantial and material exercise of administrative discretion in 843
the formulation of public policy, expenditure of public funds, 844
enforcement of laws and rules of the state or a county or city, or 845
the execution of other public trusts, to file an annual statement 846
on or before the fifteenth day of April under division (A) of this 847
section. The appropriate ethics commission shall send the public 848
officials or employees written notice of the requirement by the 849
fifteenth day of February of each year the filing is required 850
unless the public official or employee is appointed after that 851
date, in which case the notice shall be sent within thirty days 852
after appointment, and the filing shall be made not later than 853
ninety days after appointment. 854

Except for disclosure statements filed by members of the 855
board of trustees and the executive director of the tobacco use 856
prevention and control foundation and members of the board of 857
trustees and the executive director of the southern Ohio 858

agricultural and community development foundation, disclosure 859
statements filed under this division with the Ohio ethics 860
commission by members of boards, commissions, or bureaus of the 861
state for which no compensation is received other than reasonable 862
and necessary expenses shall be kept confidential. Disclosure 863
statements filed with the Ohio ethics commission under division 864
(A) of this section by business managers, treasurers, and 865
superintendents of city, local, exempted village, joint 866
vocational, or cooperative education school districts or 867
educational service centers shall be kept confidential, except 868
that any person conducting an audit of any such school district or 869
educational service center pursuant to section 115.56 or Chapter 870
117. of the Revised Code may examine the disclosure statement of 871
any business manager, treasurer, or superintendent of that school 872
district or educational service center. The Ohio ethics commission 873
shall examine each disclosure statement required to be kept 874
confidential to determine whether a potential conflict of interest 875
exists for the person who filed the disclosure statement. A 876
potential conflict of interest exists if the private interests of 877
the person, as indicated by the person's disclosure statement, 878
might interfere with the public interests the person is required 879
to serve in the exercise of the person's authority and duties in 880
the person's office or position of employment. If the commission 881
determines that a potential conflict of interest exists, it shall 882
notify the person who filed the disclosure statement and shall 883
make the portions of the disclosure statement that indicate a 884
potential conflict of interest subject to public inspection in the 885
same manner as is provided for other disclosure statements. Any 886
portion of the disclosure statement that the commission determines 887
does not indicate a potential conflict of interest shall be kept 888
confidential by the commission and shall not be made subject to 889
public inspection, except as is necessary for the enforcement of 890
Chapters 102. and 2921. of the Revised Code and except as 891

otherwise provided in this division. 892

(C) No person shall knowingly fail to file, on or before the 893
applicable filing deadline established under this section, a 894
statement that is required by this section. 895

(D) No person shall knowingly file a false statement that is 896
required to be filed under this section. 897

(E)(1) Except as provided in divisions (E)(2) and (3) of this 898
section, the statement required by division (A) or (B) of this 899
section shall be accompanied by a filing fee of ~~twenty-five~~ forty 900
dollars. 901

(2) The statement required by division (A) of this section 902
shall be accompanied by a the following filing fee to be paid by 903
the person who is elected or appointed to, or is a candidate for, 904
any of the following offices: 905

For state office, except member of the 906
state board of education \$~~50~~ 65 907

For office of member of United States 908
congress or member of general assembly \$25 909

For county office \$~~25~~ 40 910

For city office \$~~10~~ 25 911

For office of member of the state board 912
of education \$~~20~~ 25 913

For office of member of a city, local, 914
exempted village, or cooperative 915
education board of 916
education or educational service 917
center governing board \$ ~~5~~ 20 918

For position of business manager, 919
treasurer, or superintendent of a 920
city, local, exempted village, joint 921
vocational, or cooperative education 922
school district or 923

educational service center \$ 5 20 924

(3) No judge of a court of record or candidate for judge of a 925
court of record, and no referee or magistrate serving a court of 926
record, shall be required to pay the fee required under division 927
(E)(1) or (2) or (F) of this section. 928

(4) For any public official who is appointed to a nonelective 929
office of the state and for any employee who holds a nonelective 930
position in a public agency of the state, the state agency that is 931
the primary employer of the state official or employee shall pay 932
the fee required under division (E)(1) or (F) of this section. 933

(F) If a statement required to be filed under this section is 934
not filed by the date on which it is required to be filed, the 935
appropriate ethics commission shall assess the person required to 936
file the statement a late filing fee ~~equal to one half of the~~ 937
~~applicable filing fee~~ ten dollars for each day the statement is 938
not filed, except that the total amount of the late filing fee 939
shall not exceed ~~one~~ two hundred fifty dollars. 940

(G)(1) The appropriate ethics commission other than the Ohio 941
ethics commission shall deposit all fees it receives under 942
divisions (E) and (F) of this section into the general revenue 943
fund of the state. 944

(2) The Ohio ethics commission shall deposit all receipts, 945
including, but not limited to, fees it receives under divisions 946
(E) and (F) of this section and all moneys it receives from 947
settlements under division (G) of section 102.06 of the Revised 948
Code, into the Ohio ethics commission fund, which is hereby 949
created in the state treasury. All moneys credited to the fund 950
shall be used solely for expenses related to the operation and 951
statutory functions of the commission. 952

(H) Division (A) of this section does not apply to a person 953
elected or appointed to the office of precinct, ward, or district 954

committee member under Chapter 3517. of the Revised Code; a 955
presidential elector; a delegate to a national convention; village 956
or township officials and employees; any physician or psychiatrist 957
who is paid a salary or wage in accordance with schedule C of 958
section 124.15 or schedule E-2 of section 124.152 of the Revised 959
Code and whose primary duties do not require the exercise of 960
administrative discretion; or any member of a board, commission, 961
or bureau of any county or city who receives less than one 962
thousand dollars per year for serving in that position. 963

Sec. 109.57. (A)(1) The superintendent of the bureau of 964
criminal identification and investigation shall procure from 965
wherever procurable and file for record photographs, pictures, 966
descriptions, fingerprints, measurements, and other information 967
that may be pertinent of all persons who have been convicted of 968
committing within this state a felony, any crime constituting a 969
misdemeanor on the first offense and a felony on subsequent 970
offenses, or any misdemeanor described in division (A)(1)(a) of 971
section 109.572 of the Revised Code, of all children under 972
eighteen years of age who have been adjudicated delinquent 973
children for committing within this state an act that would be a 974
felony or an offense of violence if committed by an adult or who 975
have been convicted of or pleaded guilty to committing within this 976
state a felony or an offense of violence, and of all well-known 977
and habitual criminals. The person in charge of any county, 978
multicounty, municipal, municipal-county, or multicounty-municipal 979
jail or workhouse, community-based correctional facility, halfway 980
house, alternative residential facility, or state correctional 981
institution and the person in charge of any state institution 982
having custody of a person suspected of having committed a felony, 983
any crime constituting a misdemeanor on the first offense and a 984
felony on subsequent offenses, or any misdemeanor described in 985
division (A)(1)(a) of section 109.572 of the Revised Code or 986

having custody of a child under eighteen years of age with respect 987
to whom there is probable cause to believe that the child may have 988
committed an act that would be a felony or an offense of violence 989
if committed by an adult shall furnish such material to the 990
superintendent of the bureau. Fingerprints, photographs, or other 991
descriptive information of a child who is under eighteen years of 992
age, has not been arrested or otherwise taken into custody for 993
committing an act that would be a felony or an offense of violence 994
if committed by an adult, has not been adjudicated a delinquent 995
child for committing an act that would be a felony or an offense 996
of violence if committed by an adult, has not been convicted of or 997
pleaded guilty to committing a felony or an offense of violence, 998
and is not a child with respect to whom there is probable cause to 999
believe that the child may have committed an act that would be a 1000
felony or an offense of violence if committed by an adult shall 1001
not be procured by the superintendent or furnished by any person 1002
in charge of any county, multicounty, municipal, municipal-county, 1003
or multicounty-municipal jail or workhouse, community-based 1004
correctional facility, halfway house, alternative residential 1005
facility, or state correctional institution, except as authorized 1006
in section 2151.313 of the Revised Code. 1007

(2) Every clerk of a court of record in this state, other 1008
than the supreme court or a court of appeals, shall send to the 1009
superintendent of the bureau a weekly report containing a summary 1010
of each case involving a felony, involving any crime constituting 1011
a misdemeanor on the first offense and a felony on subsequent 1012
offenses, involving a misdemeanor described in division (A)(1)(a) 1013
of section 109.572 of the Revised Code, or involving an 1014
adjudication in a case in which a child under eighteen years of 1015
age was alleged to be a delinquent child for committing an act 1016
that would be a felony or an offense of violence if committed by 1017
an adult. The clerk of the court of common pleas shall include in 1018
the report and summary the clerk sends under this division all 1019

information described in divisions (A)(2)(a) to (f) of this 1020
section regarding a case before the court of appeals that is 1021
served by that clerk. The summary shall be written on the standard 1022
forms furnished by the superintendent pursuant to division (B) of 1023
this section and shall include the following information: 1024

(a) The incident tracking number contained on the standard 1025
forms furnished by the superintendent pursuant to division (B) of 1026
this section; 1027

(b) The style and number of the case; 1028

(c) The date of arrest; 1029

(d) The date that the person was convicted of or pleaded 1030
guilty to the offense, adjudicated a delinquent child for 1031
committing the act that would be a felony or an offense of 1032
violence if committed by an adult, found not guilty of the 1033
offense, or found not to be a delinquent child for committing an 1034
act that would be a felony or an offense of violence if committed 1035
by an adult, the date of an entry dismissing the charge, an entry 1036
declaring a mistrial of the offense in which the person is 1037
discharged, an entry finding that the person or child is not 1038
competent to stand trial, or an entry of a nolle prosequi, or the 1039
date of any other determination that constitutes final resolution 1040
of the case; 1041

(e) A statement of the original charge with the section of 1042
the Revised Code that was alleged to be violated; 1043

(f) If the person or child was convicted, pleaded guilty, or 1044
was adjudicated a delinquent child, the sentence or terms of 1045
probation imposed or any other disposition of the offender or the 1046
delinquent child. 1047

If the offense involved the disarming of a law enforcement 1048
officer or an attempt to disarm a law enforcement officer, the 1049
clerk shall clearly state that fact in the summary, and the 1050

superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement officials of the state and its political subdivisions.

(4) The superintendent shall carry out Chapter 2950. of the Revised Code with respect to the registration of persons who are convicted of or plead guilty to a sexually oriented offense and with respect to all other duties imposed on the bureau under that

chapter. 1083

(B) The superintendent shall prepare and furnish to every 1084
county, multicounty, municipal, municipal-county, or 1085
multicounty-municipal jail or workhouse, community-based 1086
correctional facility, halfway house, alternative residential 1087
facility, or state correctional institution and to every clerk of 1088
a court in this state specified in division (A)(2) of this section 1089
standard forms for reporting the information required under 1090
division (A) of this section. The standard forms that the 1091
superintendent prepares pursuant to this division may be in a 1092
tangible format, in an electronic format, or in both tangible 1093
formats and electronic formats. 1094

(C) The superintendent may operate a center for electronic, 1095
automated, or other data processing for the storage and retrieval 1096
of information, data, and statistics pertaining to criminals and 1097
to children under eighteen years of age who are adjudicated 1098
delinquent children for committing an act that would be a felony 1099
or an offense of violence if committed by an adult, criminal 1100
activity, crime prevention, law enforcement, and criminal justice, 1101
and may establish and operate a statewide communications network 1102
to gather and disseminate information, data, and statistics for 1103
the use of law enforcement agencies. The superintendent may 1104
gather, store, retrieve, and disseminate information, data, and 1105
statistics that pertain to children who are under eighteen years 1106
of age and that are gathered pursuant to sections 109.57 to 109.61 1107
of the Revised Code together with information, data, and 1108
statistics that pertain to adults and that are gathered pursuant 1109
to those sections. 1110

(D) The information and materials furnished to the 1111
superintendent pursuant to division (A) of this section and 1112
information and materials furnished to any board or person under 1113
division (F) or (G) of this section are not public records under 1114

section 149.43 of the Revised Code. 1115

(E) The attorney general shall adopt rules, in accordance 1116
with Chapter 119. of the Revised Code, setting forth the procedure 1117
by which a person may receive or release information gathered by 1118
the superintendent pursuant to division (A) of this section. A 1119
reasonable fee may be charged for this service. If a temporary 1120
employment service submits a request for a determination of 1121
whether a person the service plans to refer to an employment 1122
position has been convicted of or pleaded guilty to an offense 1123
listed in division (A)(1), (3), (4), ~~or (5)~~, or (6) of section 1124
109.572 of the Revised Code, the request shall be treated as a 1125
single request and only one fee shall be charged. 1126

(F)(1) As used in division (F)(2) of this section, "head 1127
start agency" means an entity in this state that has been approved 1128
to be an agency for purposes of subchapter II of the "Community 1129
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 1130
as amended. 1131

(2)(a) In addition to or in conjunction with any request that 1132
is required to be made under section 109.572, 2151.86, 3301.32, 1133
3301.541, 3319.39, 3701.881, 5104.012, 5104.013, 5123.081, 1134
5126.28, 5126.281, or 5153.111 of the Revised Code, the board of 1135
education of any school district; the director of mental 1136
retardation and developmental disabilities; any county board of 1137
mental retardation and developmental disabilities; any entity 1138
under contract with a county board of mental retardation and 1139
developmental disabilities; the chief administrator of any 1140
chartered nonpublic school; the chief administrator of any home 1141
health agency; the chief administrator of or person operating any 1142
child day-care center, type A family day-care home, or type B 1143
family day-care home licensed or certified under Chapter 5104. of 1144
the Revised Code; the administrator of any type C family day-care 1145
home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 1146

general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 1147
general assembly; the chief administrator of any head start 1148
agency; or the executive director of a public children services 1149
agency may request that the superintendent of the bureau 1150
investigate and determine, with respect to any individual who has 1151
applied for employment in any position after October 2, 1989, or 1152
any individual wishing to apply for employment with a board of 1153
education may request, with regard to the individual, whether the 1154
bureau has any information gathered under division (A) of this 1155
section that pertains to that individual. On receipt of the 1156
request, the superintendent shall determine whether that 1157
information exists and, upon request of the person, board, or 1158
entity requesting information, also shall request from the federal 1159
bureau of investigation any criminal records it has pertaining to 1160
that individual. Within thirty days of the date that the 1161
superintendent receives a request, the superintendent shall send 1162
to the board, entity, or person a report of any information that 1163
the superintendent determines exists, including information 1164
contained in records that have been sealed under section 2953.32 1165
of the Revised Code, and, within thirty days of its receipt, shall 1166
send the board, entity, or person a report of any information 1167
received from the federal bureau of investigation, other than 1168
information the dissemination of which is prohibited by federal 1169
law. 1170

(b) When a board of education is required to receive 1171
information under this section as a prerequisite to employment of 1172
an individual pursuant to section 3319.39 of the Revised Code, it 1173
may accept a certified copy of records that were issued by the 1174
bureau of criminal identification and investigation and that are 1175
presented by an individual applying for employment with the 1176
district in lieu of requesting that information itself. In such a 1177
case, the board shall accept the certified copy issued by the 1178
bureau in order to make a photocopy of it for that individual's 1179

employment application documents and shall return the certified 1180
copy to the individual. In a case of that nature, a district only 1181
shall accept a certified copy of records of that nature within one 1182
year after the date of their issuance by the bureau. 1183

(3) The state board of education may request, with respect to 1184
any individual who has applied for employment after October 2, 1185
1989, in any position with the state board or the department of 1186
education, any information that a school district board of 1187
education is authorized to request under division (F)(2) of this 1188
section, and the superintendent of the bureau shall proceed as if 1189
the request has been received from a school district board of 1190
education under division (F)(2) of this section. 1191

(4) When the superintendent of the bureau receives a request 1192
for information that is authorized under section 3319.291 of the 1193
Revised Code, the superintendent shall proceed as if the request 1194
has been received from a school district board of education under 1195
division (F)(2) of this section. 1196

(5) When a recipient of an OhioReads classroom or community 1197
reading grant paid under section 3301.86 or 3301.87 of the Revised 1198
Code or an entity approved by the OhioReads council requests, with 1199
respect to any individual who applies to participate in providing 1200
any program or service through an entity approved by the OhioReads 1201
council or funded in whole or in part by the grant, the 1202
information that a school district board of education is 1203
authorized to request under division (F)(2)(a) of this section, 1204
the superintendent of the bureau shall proceed as if the request 1205
has been received from a school district board of education under 1206
division (F)(2)(a) of this section. 1207

(G) In addition to or in conjunction with any request that is 1208
required to be made under section 173.41, 3701.881, 3712.09, 1209
3721.121, or 3722.151 of the Revised Code with respect to an 1210
individual who has applied for employment in a position that 1211

involves providing direct care to an older adult, the chief 1212
administrator of a PASSPORT agency that provides services through 1213
the PASSPORT program created under section 173.40 of the Revised 1214
Code, home health agency, hospice care program, home licensed 1215
under Chapter 3721. of the Revised Code, adult day-care program 1216
operated pursuant to rules adopted under section 3721.04 of the 1217
Revised Code, or adult care facility may request that the 1218
superintendent of the bureau investigate and determine, with 1219
respect to any individual who has applied after January 27, 1997, 1220
for employment in a position that does not involve providing 1221
direct care to an older adult, whether the bureau has any 1222
information gathered under division (A) of this section that 1223
pertains to that individual. On receipt of the request, the 1224
superintendent shall determine whether that information exists 1225
and, on request of the administrator requesting information, shall 1226
also request from the federal bureau of investigation any criminal 1227
records it has pertaining to that individual. Within thirty days 1228
of the date a request is received, the superintendent shall send 1229
to the administrator a report of any information determined to 1230
exist, including information contained in records that have been 1231
sealed under section 2953.32 of the Revised Code, and, within 1232
thirty days of its receipt, shall send the administrator a report 1233
of any information received from the federal bureau of 1234
investigation, other than information the dissemination of which 1235
is prohibited by federal law. 1236

(H) Information obtained by a board, administrator, or other 1237
person under this section is confidential and shall not be 1238
released or disseminated. 1239

(I) The superintendent may charge a reasonable fee for 1240
providing information or criminal records under division (F)(2) or 1241
(G) of this section. 1242

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 1243
section 2151.86, 3301.32, 3301.541, 3319.39, 5104.012, 5104.013, 1244
or 5153.111 of the Revised Code, a completed form prescribed 1245
pursuant to division (C)(1) of this section, and a set of 1246
fingerprint impressions obtained in the manner described in 1247
division (C)(2) of this section, the superintendent of the bureau 1248
of criminal identification and investigation shall conduct a 1249
criminal records check in the manner described in division (B) of 1250
this section to determine whether any information exists that 1251
indicates that the person who is the subject of the request 1252
previously has been convicted of or pleaded guilty to any of the 1253
following: 1254

(a) A violation of section 2903.01, 2903.02, 2903.03, 1255
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1256
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1257
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1258
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 1259
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 1260
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 1261
2925.06, or 3716.11 of the Revised Code, felonious sexual 1262
penetration in violation of former section 2907.12 of the Revised 1263
Code, a violation of section 2905.04 of the Revised Code as it 1264
existed prior to July 1, 1996, a violation of section 2919.23 of 1265
the Revised Code that would have been a violation of section 1266
2905.04 of the Revised Code as it existed prior to July 1, 1996, 1267
had the violation been committed prior to that date, or a 1268
violation of section 2925.11 of the Revised Code that is not a 1269
minor drug possession offense; 1270

(b) A violation of an existing or former law of this state, 1271
any other state, or the United States that is substantially 1272
equivalent to any of the offenses listed in division (A)(1)(a) of 1273

this section. 1274

(2) On receipt of a request pursuant to section 5123.081 of 1275
the Revised Code with respect to an applicant for employment in 1276
any position with the department of mental retardation and 1277
developmental disabilities, pursuant to section 5126.28 of the 1278
Revised Code with respect to an applicant for employment in any 1279
position with a county board of mental retardation and 1280
developmental disabilities, or pursuant to section 5126.281 of the 1281
Revised Code with respect to an applicant for employment in a 1282
direct services position with an entity contracting with a county 1283
board for employment, a completed form prescribed pursuant to 1284
division (C)(1) of this section, and a set of fingerprint 1285
impressions obtained in the manner described in division (C)(2) of 1286
this section, the superintendent of the bureau of criminal 1287
identification and investigation shall conduct a criminal records 1288
check. The superintendent shall conduct the criminal records check 1289
in the manner described in division (B) of this section to 1290
determine whether any information exists that indicates that the 1291
person who is the subject of the request has been convicted of or 1292
pleaded guilty to any of the following: 1293

(a) A violation of section 2903.01, 2903.02, 2903.03, 1294
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1295
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 1296
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 1297
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 1298
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1299
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, or 1300
3716.11 of the Revised Code; 1301

(b) An existing or former municipal ordinance or law of this 1302
state, any other state, or the United States that is substantially 1303
equivalent to any of the offenses listed in division (A)(2)(a) of 1304
this section. 1305

(3) On receipt of a request pursuant to section 173.41, 1306
3712.09, 3721.121, or 3722.151 of the Revised Code, a completed 1307
form prescribed pursuant to division (C)(1) of this section, and a 1308
set of fingerprint impressions obtained in the manner described in 1309
division (C)(2) of this section, the superintendent of the bureau 1310
of criminal identification and investigation shall conduct a 1311
criminal records check with respect to any person who has applied 1312
for employment in a position that involves providing direct care 1313
to an older adult. The superintendent shall conduct the criminal 1314
records check in the manner described in division (B) of this 1315
section to determine whether any information exists that indicates 1316
that the person who is the subject of the request previously has 1317
been convicted of or pleaded guilty to any of the following: 1318

(a) A violation of section 2903.01, 2903.02, 2903.03, 1319
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1320
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1321
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1322
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1323
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1324
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1325
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1326
2925.22, 2925.23, or 3716.11 of the Revised Code; 1327

(b) An existing or former law of this state, any other state, 1328
or the United States that is substantially equivalent to any of 1329
the offenses listed in division (A)(3)(a) of this section. 1330

(4) On receipt of a request pursuant to section 3701.881 of 1331
the Revised Code with respect to an applicant for employment with 1332
a home health agency as a person responsible for the care, 1333
custody, or control of a child, a completed form prescribed 1334
pursuant to division (C)(1) of this section, and a set of 1335
fingerprint impressions obtained in the manner described in 1336
division (C)(2) of this section, the superintendent of the bureau 1337

of criminal identification and investigation shall conduct a 1338
criminal records check. The superintendent shall conduct the 1339
criminal records check in the manner described in division (B) of 1340
this section to determine whether any information exists that 1341
indicates that the person who is the subject of the request 1342
previously has been convicted of or pleaded guilty to any of the 1343
following: 1344

(a) A violation of section 2903.01, 2903.02, 2903.03, 1345
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1346
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 1347
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 1348
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 1349
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1350
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 1351
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 1352
violation of section 2925.11 of the Revised Code that is not a 1353
minor drug possession offense; 1354

(b) An existing or former law of this state, any other state, 1355
or the United States that is substantially equivalent to any of 1356
the offenses listed in division (A)(4)(a) of this section. 1357

(5) On receipt of a request pursuant to section 5111.95 or 1358
5111.96 of the Revised Code with respect to an applicant for 1359
employment with agencies participating in department of job and 1360
family services administered waivers or independent providers in 1361
department administered home and community-based service programs 1362
in a position that involves providing home and community-based 1363
waiver services to consumers with disabilities, a completed form 1364
prescribed pursuant to division (C)(1) of this section, and a set 1365
of fingerprint impressions obtained in the manner described in 1366
division (C)(2) of this section, the superintendent of the bureau 1367
of criminal identification and investigation shall conduct a 1368
criminal records check. The superintendent shall conduct the 1369

criminal records check in the manner described in division (B) of 1370
this section to determine whether any information exists that 1371
indicates that the person who is the subject of the request 1372
previously has been convicted of or pleaded guilty to any of the 1373
following: 1374

(a) A violation of section 2903.01, 2903.02, 2903.03, 1375
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 1376
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 1377
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 1378
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 1379
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 1380
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 1381
2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 1382
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 1383
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 1384
Revised Code, felonious sexual penetration in violation of former 1385
section 2907.12 of the Revised Code, a violation of section 1386
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 1387
violation of section 2919.23 of the Revised Code that would have 1388
been a violation of section 2905.04 of the Revised Code as it 1389
existed prior to July 1, 1996, had the violation been committed 1390
prior to that date; 1391

(b) An existing or former law of this state, any other state, 1392
or the United States that is substantially equivalent to any of 1393
the offenses listed in division (A)(5)(a) of this section. 1394

(6) On receipt of a request pursuant to section 3701.881 of 1395
the Revised Code with respect to an applicant for employment with 1396
a home health agency in a position that involves providing direct 1397
care to an older adult, a completed form prescribed pursuant to 1398
division (C)(1) of this section, and a set of fingerprint 1399
impressions obtained in the manner described in division (C)(2) of 1400
this section, the superintendent of the bureau of criminal 1401

identification and investigation shall conduct a criminal records 1402
check. The superintendent shall conduct the criminal records check 1403
in the manner described in division (B) of this section to 1404
determine whether any information exists that indicates that the 1405
person who is the subject of the request previously has been 1406
convicted of or pleaded guilty to any of the following: 1407

(a) A violation of section 2903.01, 2903.02, 2903.03, 1408
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1409
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1410
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1411
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1412
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1413
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1414
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1415
2925.22, 2925.23, or 3716.11 of the Revised Code; 1416

(b) An existing or former law of this state, any other state, 1417
or the United States that is substantially equivalent to any of 1418
the offenses listed in division (A)~~(5)~~(6)(a) of this section. 1419

~~(6)~~(7) When conducting a criminal records check upon a 1420
request pursuant to section 3319.39 of the Revised Code for an 1421
applicant who is a teacher, in addition to the determination made 1422
under division (A)(1) of this section, the superintendent shall 1423
determine whether any information exists that indicates that the 1424
person who is the subject of the request previously has been 1425
convicted of or pleaded guilty to any offense specified in section 1426
3319.31 of the Revised Code. 1427

~~(7)~~(8) When conducting a criminal records check on a request 1428
pursuant to section 2151.86 of the Revised Code for a person who 1429
is a prospective foster caregiver or who is eighteen years old or 1430
older and resides in the home of a prospective foster caregiver, 1431
the superintendent, in addition to the determination made under 1432
division (A)(1) of this section, shall determine whether any 1433

information exists that indicates that the person has been 1434
convicted of or pleaded guilty to a violation of: 1435

(a) Section 2909.02 or 2909.03 of the Revised Code; 1436

(b) An existing or former law of this state, any other state, 1437
or the United States that is substantially equivalent to section 1438
2909.02 or 2909.03 of the Revised Code. 1439

~~(8)~~(9) Not later than thirty days after the date the 1440
superintendent receives the request, completed form, and 1441
fingerprint impressions, the superintendent shall send the person, 1442
board, or entity that made the request any information, other than 1443
information the dissemination of which is prohibited by federal 1444
law, the superintendent determines exists with respect to the 1445
person who is the subject of the request that indicates that the 1446
person previously has been convicted of or pleaded guilty to any 1447
offense listed or described in division (A)(1), (2), (3), (4), 1448
(5), (6), ~~or (7)~~, or (8) of this section, as appropriate. The 1449
superintendent shall send the person, board, or entity that made 1450
the request a copy of the list of offenses specified in division 1451
(A)(1), (2), (3), (4), (5), (6), ~~or (7)~~, or (8) of this section, 1452
as appropriate. If the request was made under section 3701.881 of 1453
the Revised Code with regard to an applicant who may be both 1454
responsible for the care, custody, or control of a child and 1455
involved in providing direct care to an older adult, the 1456
superintendent shall provide a list of the offenses specified in 1457
divisions (A)(4) and ~~(5)~~(6) of this section. 1458

(B) The superintendent shall conduct any criminal records 1459
check requested under section 173.41, 2151.86, 3301.32, 3301.541, 1460
3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 1461
5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 1462
5153.111 of the Revised Code as follows: 1463

(1) The superintendent shall review or cause to be reviewed 1464

any relevant information gathered and compiled by the bureau under 1465
division (A) of section 109.57 of the Revised Code that relates to 1466
the person who is the subject of the request, including any 1467
relevant information contained in records that have been sealed 1468
under section 2953.32 of the Revised Code; 1469

(2) If the request received by the superintendent asks for 1470
information from the federal bureau of investigation, the 1471
superintendent shall request from the federal bureau of 1472
investigation any information it has with respect to the person 1473
who is the subject of the request and shall review or cause to be 1474
reviewed any information the superintendent receives from that 1475
bureau. 1476

(C)(1) The superintendent shall prescribe a form to obtain 1477
the information necessary to conduct a criminal records check from 1478
any person for whom a criminal records check is required by 1479
section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 1480
3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 1481
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The 1482
form that the superintendent prescribes pursuant to this division 1483
may be in a tangible format, in an electronic format, or in both 1484
tangible and electronic formats. 1485

(2) The superintendent shall prescribe standard impression 1486
sheets to obtain the fingerprint impressions of any person for 1487
whom a criminal records check is required by section 173.41, 1488
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 1489
3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 1490
5126.281, or 5153.111 of the Revised Code. Any person for whom a 1491
records check is required by any of those sections shall obtain 1492
the fingerprint impressions at a county sheriff's office, 1493
municipal police department, or any other entity with the ability 1494
to make fingerprint impressions on the standard impression sheets 1495
prescribed by the superintendent. The office, department, or 1496

entity may charge the person a reasonable fee for making the 1497
impressions. The standard impression sheets the superintendent 1498
prescribes pursuant to this division may be in a tangible format, 1499
in an electronic format, or in both tangible and electronic 1500
formats. 1501

(3) Subject to division (D) of this section, the 1502
superintendent shall prescribe and charge a reasonable fee for 1503
providing a criminal records check requested under section 173.41, 1504
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 1505
3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 1506
5126.281, or 5153.111 of the Revised Code. The person making a 1507
criminal records request under section 173.41, 2151.86, 3301.32, 1508
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 1509
5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, 1510
or 5153.111 of the Revised Code shall pay the fee prescribed 1511
pursuant to this division. A person making a request under section 1512
3701.881 of the Revised Code for a criminal records check for an 1513
applicant who may be both responsible for the care, custody, or 1514
control of a child and involved in providing direct care to an 1515
older adult shall pay one fee for the request. 1516

(4) The superintendent of the bureau of criminal 1517
identification and investigation may prescribe methods of 1518
forwarding fingerprint impressions and information necessary to 1519
conduct a criminal records check, which methods shall include, but 1520
not be limited to, an electronic method. 1521

(D) A determination whether any information exists that 1522
indicates that a person previously has been convicted of or 1523
pleaded guilty to any offense listed or described in division 1524
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 1525
(b), (A)(5)(a) or (b), (A)(6), ~~or~~ (A)(7)(a) or (b), or (A)(8)(a) 1526
or (b) of this section that is made by the superintendent with 1527
respect to information considered in a criminal records check in 1528

accordance with this section is valid for the person who is the 1529
subject of the criminal records check for a period of one year 1530
from the date upon which the superintendent makes the 1531
determination. During the period in which the determination in 1532
regard to a person is valid, if another request under this section 1533
is made for a criminal records check for that person, the 1534
superintendent shall provide the information that is the basis for 1535
the superintendent's initial determination at a lower fee than the 1536
fee prescribed for the initial criminal records check. 1537

(E) As used in this section: 1538

(1) "Criminal records check" means any criminal records check 1539
conducted by the superintendent of the bureau of criminal 1540
identification and investigation in accordance with division (B) 1541
of this section. 1542

(2) "Home and community-based waiver services" has the same 1543
meaning as in section 5111.95 of the Revised Code. 1544

(3) "Minor drug possession offense" has the same meaning as 1545
in section 2925.01 of the Revised Code. 1546

~~(3)~~(4) "Older adult" means a person age sixty or older. 1547

Sec. 109.71. There is hereby created in the office of the 1548
attorney general the Ohio peace officer training commission. The 1549
commission shall consist of nine members appointed by the governor 1550
with the advice and consent of the senate and selected as follows: 1551
one member representing the public; two members who are incumbent 1552
sheriffs; two members who are incumbent chiefs of police; one 1553
member from the bureau of criminal identification and 1554
investigation; one member from the state highway patrol; one 1555
member who is the special agent in charge of a field office of the 1556
federal bureau of investigation in this state; and one member from 1557
the department of education, trade and industrial education 1558

services, law enforcement training.	1559
As used in sections 109.71 to 109.77 of the Revised Code:	1560
(A) "Peace officer" means:	1561
(1) A deputy sheriff, marshal, deputy marshal, member of the	1562
organized police department of a township or municipal	1563
corporation, member of a township police district or joint	1564
township police district police force, member of a police force	1565
employed by a metropolitan housing authority under division (D) of	1566
section 3735.31 of the Revised Code, or township constable, who is	1567
commissioned and employed as a peace officer by a political	1568
subdivision of this state or by a metropolitan housing authority,	1569
and whose primary duties are to preserve the peace, to protect	1570
life and property, and to enforce the laws of this state,	1571
ordinances of a municipal corporation, resolutions of a township,	1572
or regulations of a board of county commissioners or board of	1573
township trustees, or any of those laws, ordinances, resolutions,	1574
or regulations;	1575
(2) A police officer who is employed by a railroad company	1576
and appointed and commissioned by the governor pursuant to	1577
sections 4973.17 to 4973.22 of the Revised Code;	1578
(3) Employees of the department of taxation engaged in the	1579
enforcement of Chapter 5743. of the Revised Code <u>laws the tax</u>	1580
<u>commissioner administers</u> and designated by the tax commissioner	1581
for peace officer training for purposes of the delegation of	1582
investigation powers under section 5743.45 <u>5703.58</u> of the Revised	1583
Code;	1584
(4) An undercover drug agent;	1585
(5) Enforcement agents of the department of public safety	1586
whom the director of public safety designates under section	1587
5502.14 of the Revised Code;	1588

- (6) An employee of the department of natural resources who is 1589
a natural resources law enforcement staff officer designated 1590
pursuant to section 1501.013, a park officer designated pursuant 1591
to section 1541.10, a forest officer designated pursuant to 1592
section 1503.29, a preserve officer designated pursuant to section 1593
1517.10, a wildlife officer designated pursuant to section 1594
1531.13, or a state watercraft officer designated pursuant to 1595
section 1547.521 of the Revised Code; 1596
- (7) An employee of a park district who is designated pursuant 1597
to section 511.232 or 1545.13 of the Revised Code; 1598
- (8) An employee of a conservancy district who is designated 1599
pursuant to section 6101.75 of the Revised Code; 1600
- (9) A police officer who is employed by a hospital that 1601
employs and maintains its own proprietary police department or 1602
security department, and who is appointed and commissioned by the 1603
governor pursuant to sections 4973.17 to 4973.22 of the Revised 1604
Code; 1605
- (10) Veterans' homes police officers designated under section 1606
5907.02 of the Revised Code; 1607
- (11) A police officer who is employed by a qualified 1608
nonprofit corporation police department pursuant to section 1609
1702.80 of the Revised Code; 1610
- (12) A state university law enforcement officer appointed 1611
under section 3345.04 of the Revised Code or a person serving as a 1612
state university law enforcement officer on a permanent basis on 1613
June 19, 1978, who has been awarded a certificate by the executive 1614
director of the Ohio peace officer training commission attesting 1615
to the person's satisfactory completion of an approved state, 1616
county, municipal, or department of natural resources peace 1617
officer basic training program; 1618

(13) A special police officer employed by the department of mental health pursuant to section 5119.14 of the Revised Code or the department of mental retardation and developmental disabilities pursuant to section 5123.13 of the Revised Code;	1619 1620 1621 1622
(14) A member of a campus police department appointed under section 1713.50 of the Revised Code;	1623 1624
(15) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code;	1625 1626 1627
(16) Investigators appointed by the auditor of state pursuant to section 117.091 of the Revised Code and engaged in the enforcement of Chapter 117. of the Revised Code;	1628 1629 1630
(17) A special police officer designated by the superintendent of the state highway patrol pursuant to section 5503.09 of the Revised Code or a person who was serving as a special police officer pursuant to that section on a permanent basis on October 21, 1997, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;	1631 1632 1633 1634 1635 1636 1637 1638 1639
(18) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code or a person serving as a special police officer employed by a port authority on a permanent basis on May 17, 2000, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;	1640 1641 1642 1643 1644 1645 1646 1647
(19) A special police officer employed by a municipal corporation who has been awarded a certificate by the executive	1648 1649

director of the Ohio peace officer training commission for 1650
satisfactory completion of an approved peace officer basic 1651
training program and who is employed on a permanent basis on or 1652
after ~~the effective date of this amendment~~ March 19, 2003, at a 1653
municipal airport, or other municipal air navigation facility, 1654
that has scheduled operations, as defined in section 119.3 of 1655
Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as 1656
amended, and that is required to be under a security program and 1657
is governed by aviation security rules of the transportation 1658
security administration of the United States department of 1659
transportation as provided in Parts 1542. and 1544. of Title 49 of 1660
the Code of Federal Regulations, as amended. 1661

(B) "Undercover drug agent" has the same meaning as in 1662
division (B)(2) of section 109.79 of the Revised Code. 1663

(C) "Crisis intervention training" means training in the use 1664
of interpersonal and communication skills to most effectively and 1665
sensitively interview victims of rape. 1666

(D) "Missing children" has the same meaning as in section 1667
2901.30 of the Revised Code. 1668

Sec. 117.45. (A) The auditor of state shall draw warrants 1669
against the treasurer of state pursuant to all requests for 1670
payment that the director of budget and management has approved 1671
under section 126.07 of the Revised Code. 1672

(B) Unless the director of job and family services has 1673
provided for the making of payments by electronic benefit 1674
transfer, if a financial institution and account have been 1675
designated by the participant or recipient, payment by the auditor 1676
of state to a participant in the Ohio works first program pursuant 1677
to Chapter 5107. of the Revised Code or a recipient of disability 1678
financial assistance pursuant to Chapter 5115. of the Revised Code 1679
shall be made by direct deposit to the account of the participant 1680

or recipient in the financial institution. Payment by the auditor 1681
of state to a recipient of benefits distributed through the medium 1682
of electronic benefit transfer pursuant to section 5101.33 of the 1683
Revised Code shall be by electronic benefit transfer. Payment by 1684
the auditor of state as compensation to an employee of the state 1685
who has, pursuant to section 124.151 of the Revised Code, 1686
designated a financial institution and account for the direct 1687
deposit of such payments shall be made by direct deposit to the 1688
account of the employee. Payment to any other payee who has 1689
designated a financial institution and account for the direct 1690
deposit of such payment may be made by direct deposit to the 1691
account of the payee in the financial institution as provided in 1692
section 9.37 of the Revised Code. The auditor of state shall 1693
contract with an authorized financial institution for the services 1694
necessary to make direct deposits or electronic benefit transfers 1695
under this division and draw lump sum warrants payable to that 1696
institution in the amount to be transferred. Accounts maintained 1697
by the auditor of state or the auditor of state's agent in a 1698
financial institution for the purpose of effectuating payment by 1699
direct deposit or electronic benefit transfer shall be maintained 1700
in accordance with section 135.18 of the Revised Code. 1701

(C) All other payments from the state treasury shall be made 1702
by paper warrants or by direct deposit payable to the respective 1703
payees. The auditor of state may mail the paper warrants to the 1704
respective payees or distribute them through other state agencies, 1705
whichever the auditor of state determines to be the better 1706
procedure. 1707

(D) If the average per transaction cost the auditor of state 1708
incurs in making direct deposits for a state agency exceeds the 1709
average per transaction cost the auditor of state incurs in 1710
drawing paper warrants for all public offices during the same 1711
period of time, the auditor of state may certify the difference in 1712

cost and the number of direct deposits for the agency to the 1713
director of administrative services. The director shall reimburse 1714
the auditor of state for such additional costs and add the amount 1715
to the processing charge assessed upon the state agency. 1716

Sec. 119.035. An agency may appoint an advisory committee to 1717
advise the agency concerning its development of a rule, amendment, 1718
or rescission, and may otherwise consult with persons representing 1719
interests that would be affected by the rule, amendment, or 1720
rescission were it actually to be proposed and adopted. ~~Upon an~~ 1721
~~agency's request, the executive director or another officer or~~ 1722
~~employee of the Ohio commission on dispute resolution and conflict~~ 1723
~~management may serve as a group facilitator for, but not as a~~ 1724
~~member of, such an advisory committee.~~ 1725

Sec. 121.04. Offices are created within the several 1726
departments as follows: 1727

In the department of commerce: 1728

Commissioner of securities; 1729

Superintendent of real estate and professional 1730
licensing;

Superintendent of financial institutions; 1731

Fire marshal; 1732

Superintendent of labor and worker safety; 1733

Beginning on July 1, 1997, 1734

Superintendent of liquor control; 1735

Superintendent of industrial compliance. 1736

In the department of administrative services: 1737

State architect and engineer; 1738

Equal employment opportunity coordinator. 1739

In the department of agriculture: 1740

Chiefs of divisions as follows: 1741

Administration;	1742
Animal industry;	1743
Dairy;	1744
Food safety;	1745
Plant industry;	1746
Markets;	1747
Meat inspection;	1748
Consumer analytical laboratory;	1749
Amusement ride safety;	1750
Enforcement;	1751
Weights and measures.	1752
In the department of natural resources:	1753
Chiefs of divisions as follows:	1754
Water;	1755
Mineral resources management;	1756
Forestry;	1757
Natural areas and preserves;	1758
Wildlife;	1759
Geological survey;	1760
Parks and recreation;	1761
Watercraft;	1762
Recycling and litter prevention;	1763
Civilian conservation;	1764
Soil and water conservation;	1765
Real estate and land management;	1766
Engineering.	1767
In the department of insurance:	1768
Deputy superintendent of insurance;	1769
Assistant superintendent of insurance, technical;	1770
Assistant superintendent of insurance, administrative;	1771
Assistant superintendent of insurance, research.	1772

Sec. 121.084. (A) All moneys collected under sections 1773
~~1333.96,~~ 3783.05, 3791.07, 4104.07, 4104.18, ~~4104.42,~~ 4104.44, 1774
~~4104.45,~~ 4105.17, 4105.20, 4169.03, 4171.04, and 5104.051 of the 1775
Revised Code, and any other moneys collected by the division of 1776
industrial compliance shall be paid into the state treasury to the 1777
credit of the industrial compliance operating fund, which is 1778
hereby created. The department of commerce shall use the moneys in 1779
the fund for paying the operating expenses of the division and the 1780
administrative assessment described in division (B) of this 1781
section. 1782

(B) The director of commerce, with the approval of the 1783
director of budget and management, shall prescribe procedures for 1784
assessing the industrial compliance operating fund a proportionate 1785
share of the administrative costs of the department of commerce. 1786
The assessment shall be made in accordance with those procedures 1787
and be paid from the industrial compliance operating fund to the 1788
division of administration fund created in section 121.08 of the 1789
Revised Code. 1790

Sec. 122.011. (A) The department of development shall develop 1791
and promote plans and programs designed to assure that state 1792
resources are efficiently used, economic growth is properly 1793
balanced, community growth is developed in an orderly manner, and 1794
local governments are coordinated with each other and the state, 1795
and for such purposes may do all of the following: 1796

(1) Serve as a clearinghouse for information, data, and other 1797
materials that may be helpful or necessary to persons or local 1798
governments, as provided in section 122.07 of the Revised Code; 1799

(2) Prepare and activate plans for the retention, 1800
development, expansion, and use of the resources and commerce of 1801
the state, as provided in section 122.04 of the Revised Code; 1802

(3) Assist and cooperate with federal, state, and local governments and agencies of federal, state, and local governments in the coordination of programs to carry out the functions and duties of the department;	1803 1804 1805 1806
(4) Encourage and foster research and development activities, conduct studies related to the solution of community problems, and develop recommendations for administrative or legislative actions, as provided in section 122.03 of the Revised Code;	1807 1808 1809 1810
(5) Serve as the economic and community development planning agency, which shall prepare and recommend plans and programs for the orderly growth and development of this state and which shall provide planning assistance, as provided in section 122.06 of the Revised Code;	1811 1812 1813 1814 1815
(6) Cooperate with and provide technical assistance to state departments, political subdivisions, regional and local planning commissions, tourist associations, councils of government, community development groups, community action agencies, and other appropriate organizations for carrying out the functions and duties of the department or for the solution of community problems;	1816 1817 1818 1819 1820 1821 1822
(7) Coordinate the activities of state agencies that have an impact on carrying out the functions and duties of the department;	1823 1824
(8) Encourage and assist the efforts of and cooperate with local governments to develop mutual and cooperative solutions to their common problems that relate to carrying out the purposes of this section;	1825 1826 1827 1828
(9) Study existing structure, operations, and financing of regional or local government and those state activities that involve significant relations with regional or local governmental units, recommend to the governor and to the general assembly such changes in these provisions and activities as will improve the	1829 1830 1831 1832 1833

operations of regional or local government, and conduct other 1834
studies of legal provisions that affect problems related to 1835
carrying out the purposes of this section; 1836

(10) Appoint, with the approval of the governor, technical 1837
and other advisory councils as it considers appropriate, as 1838
provided in section 122.09 of the Revised Code; 1839

(11) Create and operate a division of community development 1840
to develop and administer programs and activities that are 1841
authorized by federal statute or the Revised Code; 1842

(12) Until ~~July 1, 2003~~ October 15, 2005, establish fees and 1843
charges, in consultation with the director of agriculture, for 1844
purchasing loans from financial institutions and providing loan 1845
guarantees under the family farm loan program created under 1846
sections 901.80 to 901.83 of the Revised Code; 1847

(13) Provide loan servicing for the loans purchased and loan 1848
guarantees provided under section 901.80 of the Revised Code as 1849
that section existed prior to ~~July 1, 2003~~ October 15, 2005; 1850

(14) Until ~~July 1, 2003~~ October 15, 2005, and upon approval 1851
by the controlling board under division (A)(3) of section 901.82 1852
of the Revised Code of the release of money to be used for 1853
purchasing a loan or providing a loan guarantee, request the 1854
release of that money in accordance with division (B) of section 1855
166.03 of the Revised Code for use for the purposes of the fund 1856
created by section 166.031 of the Revised Code. 1857

(B) The director of development may request the attorney 1858
general to, and the attorney general, in accordance with section 1859
109.02 of the Revised Code, shall bring a civil action in any 1860
court of competent jurisdiction. The director may be sued in the 1861
director's official capacity, in connection with this chapter, in 1862
accordance with Chapter 2743. of the Revised Code. 1863

Sec. 122.04. The department of development shall <u>do the</u>	1864
<u>following:</u>	1865
(A) Maintain a continuing evaluation of the sources available	1866
for the retention, development, or expansion of industrial and	1867
commercial facilities in this state through both public and	1868
private agencies;	1869
(B) Assist public and private agencies in obtaining	1870
information necessary to evaluate the desirability of the	1871
retention, construction, or expansion of industrial and commercial	1872
facilities in the state;	1873
(C) Facilitate contracts between community improvement	1874
corporations organized under Chapter 1724. of the Revised Code or	1875
Ohio development corporations organized under Chapter 1726. of the	1876
Revised Code and industrial and commercial concerns seeking to	1877
locate or expand in Ohio <u>the state</u> ;	1878
(D) Upon request, consult with public agencies or authorities	1879
in the preparation of studies of human and economic needs or	1880
advantages relating to economic and community development;	1881
(E) Encourage, promote, and assist trade and commerce between	1882
this state and foreign nations;	1883
(F) Promote and encourage persons to visit and travel within	1884
this state;	1885
(G) Maintain membership in <u>the</u> national association of state	1886
development agencies;	1887
(H) Assist in the development of facilities and technologies	1888
that will lead to increased, environmentally sound use of Ohio	1889
coal;	1890
<u>(I) Promote economic growth in the state.</u>	1891

Sec. 122.08. (A) There is hereby created within the 1892
department of development an office to be known as the office of 1893
small business. The office shall be under the supervision of a 1894
manager appointed by the director of development. 1895

(B) The office shall do all of the following: 1896

(1) Act as liaison between the small business community and 1897
state governmental agencies; 1898

(2) Furnish information and technical assistance to persons 1899
and small businesses concerning the establishment and maintenance 1900
of a small business, and concerning state laws and rules relevant 1901
to the operation of a small business. In conjunction with these 1902
duties, the office shall keep a record of all state agency rules 1903
affecting individuals, small businesses, or small organizations, 1904
as defined in section 121.24 of the Revised Code, and may testify 1905
before the joint committee on agency rule review concerning any 1906
proposed rule affecting individuals, small businesses, or small 1907
organizations. 1908

(3) Prepare and publish the small business register under 1909
section 122.081 of the Revised Code; 1910

(4) Receive complaints from small businesses concerning 1911
governmental activity, compile and analyze those complaints, and 1912
periodically make recommendations to the governor and the general 1913
assembly on changes in state laws or agency rules needed to 1914
eliminate burdensome and unproductive governmental regulation to 1915
improve the economic climate within which small businesses 1916
operate; 1917

(5) Receive complaints or questions from small businesses and 1918
direct ~~such~~ those businesses to the appropriate governmental 1919
agency. If, within a reasonable period of time, a complaint is not 1920
satisfactorily resolved or a question is not satisfactorily 1921

answered, the office shall, on behalf of the small business, make 1922
every effort to secure a satisfactory result. For this purpose, 1923
the office may consult with any state governmental agency and may 1924
make any suggestion or request that seems appropriate. 1925

(6) Utilize, to the maximum extent possible, the printed and 1926
electronic media to disseminate information of current concern and 1927
interest to the small business community and to make known to 1928
small businesses the services available through the office. The 1929
office shall publish such books, pamphlets, and other printed 1930
materials, and shall participate in such trade association 1931
meetings, conventions, fairs, and other meetings involving the 1932
small business community, as the manager considers appropriate. 1933

(7) Prepare for inclusion in the department of development's 1934
annual report to the governor and general assembly, a description 1935
of the activities of the office and a report of the number of 1936
rules affecting individuals, small businesses, and small 1937
organizations that were filed with the office under division 1938
(B)(2) of section 121.24 of the Revised Code, during the preceding 1939
calendar year; 1940

(8) Operate the Ohio ~~one stop business permit center~~ 1941
first-stop business connection to assist individuals in 1942
identifying and preparing applications for business licenses, 1943
permits, and certificates and to serve as the central public 1944
distributor for all forms, applications, and other information 1945
related to business licensing. Each state agency, board, and 1946
commission shall cooperate in providing assistance, information, 1947
and materials to enable the ~~center~~ connection to perform its 1948
duties under this division ~~(B)(8) of this section.~~ 1949

(C) The office ~~of small business~~ may, upon the request of a 1950
state agency, assist the agency with the preparation of any rule 1951
that will affect individuals, small businesses, or small 1952
organizations. 1953

(D) The director of development shall assign ~~such~~ employees 1954
and furnish ~~such~~ equipment and supplies to the office as the 1955
director considers necessary for the proper performance of the 1956
duties assigned to the office. 1957

Sec. 122.17. (A) As used in this section: 1958

(1) "Full-time employee" means an individual who is employed 1959
for consideration for at least thirty-five hours a week, or who 1960
renders any other standard of service generally accepted by custom 1961
or specified by contract as full-time employment. 1962

(2) "New employee" means one of the following: 1963

(a) A full-time employee first employed by a taxpayer in the 1964
project that is the subject of the agreement after the taxpayer 1965
enters into a tax credit agreement with the tax credit authority 1966
under this section; 1967

(b) A full-time employee first employed by a taxpayer in the 1968
project that is the subject of the tax credit after the tax credit 1969
authority approves a project for a tax credit under this section 1970
in a public meeting, as long as the taxpayer enters into the tax 1971
credit agreement prepared by the department of development after 1972
such meeting within sixty days after receiving the agreement from 1973
the department. If the taxpayer fails to enter into the agreement 1974
within sixty days, "new employee" has the same meaning as under 1975
division (A)(2)(a) of this section. 1976

Under division (A)(2)(a) or (b) of this section, if the tax 1977
credit authority determines it appropriate, "new employee" also 1978
may include an employee re-hired or called back from lay-off to 1979
work in a new facility or on a new product or service established 1980
or produced by the taxpayer after entering into the agreement 1981
under this section or after the tax credit authority approves the 1982
tax credit in a public meeting. "New employee" does not include 1983

any employee of the taxpayer who was previously employed in this 1984
state by a related member of the taxpayer and whose employment was 1985
shifted to the taxpayer after the taxpayer entered into the tax 1986
credit agreement or after the tax credit authority approved the 1987
credit in a public meeting, or any employee of the taxpayer for 1988
which the taxpayer has been granted a certificate under division 1989
(B) of section 5709.66 of the Revised Code. "New employee" also 1990
does not include an employee of the taxpayer who is employed in an 1991
employment position that was relocated to a project from other 1992
operations of the taxpayer in this state or from operations of a 1993
related member of the taxpayer in this state. In addition, "new 1994
employee" does not include a child, grandchild, parent, or spouse, 1995
other than a spouse who is legally separated from the individual, 1996
of any individual who is an employee of the taxpayer and who has a 1997
direct or indirect ownership interest of at least five per cent in 1998
the profits, capital, or value of the taxpayer. Such ownership 1999
interest shall be determined in accordance with section 1563 of 2000
the Internal Revenue Code and regulations prescribed thereunder. 2001

(3) "New income tax revenue" means the total amount withheld 2002
under section 5747.06 of the Revised Code by the taxpayer during 2003
the taxable year from the compensation of new employees for the 2004
tax levied under Chapter 5747. of the Revised Code. 2005

(4) "Related member" has the same meaning as ~~under division~~ 2006
~~(A)(6) of~~ in section 5733.042 of the Revised Code without regard 2007
to division (B) of that section. 2008

(B) The tax credit authority may make grants under this 2009
section to foster job creation in this state. Such a grant shall 2010
take the form of a refundable credit allowed against the tax 2011
imposed by section 5733.06 or 5747.02 of the Revised Code. The 2012
credit shall be claimed for the taxable years specified in the 2013
taxpayer's agreement with the tax credit authority under division 2014
(D) of this section. The credit shall be claimed after the 2015

allowance of all other credits provided by Chapter 5733. or 5747. 2016
of the Revised Code. The amount of the credit equals the new 2017
income tax revenue for the taxable year multiplied by the 2018
percentage specified in the agreement with the tax credit 2019
authority. 2020

(C) A taxpayer or potential taxpayer who proposes a project 2021
to create new jobs in this state may apply to the tax credit 2022
authority to enter into an agreement for a tax credit under this 2023
section. The director of development shall prescribe the form of 2024
the application. After receipt of an application, the authority 2025
may enter into an agreement with the taxpayer for a credit under 2026
this section if it determines all of the following: 2027

(1) The taxpayer's project will create new jobs in this 2028
state; 2029

(2) The taxpayer's project is economically sound and will 2030
benefit the people of this state by increasing opportunities for 2031
employment and strengthening the economy of this state; 2032

(3) Receiving the tax credit is a major factor in the 2033
taxpayer's decision to go forward with the project. 2034

(D) An agreement under this section shall include all of the 2035
following: 2036

(1) A detailed description of the project that is the subject 2037
of the agreement; 2038

(2) The term of the tax credit, which shall not exceed ten 2039
years, and the first taxable year for which the credit may be 2040
claimed; 2041

(3) A requirement that the taxpayer shall maintain operations 2042
at the project location for at least twice the number of years as 2043
the term of the tax credit; 2044

(4) The percentage, as determined by the tax credit 2045

authority, of new income tax revenue that will be allowed as the 2046
amount of the credit for each taxable year; 2047

(5) A specific method for determining how many new employees 2048
are employed during a taxable year; 2049

(6) A requirement that the taxpayer annually shall report to 2050
the director of development the number of new employees, the new 2051
income tax revenue withheld in connection with the new employees, 2052
and any other information the director needs to perform ~~his~~ the 2053
director's duties under this section; 2054

(7) A requirement that the director of development annually 2055
shall verify the amounts reported under division (D)(6) of this 2056
section, and after doing so shall issue a certificate to the 2057
taxpayer stating that the amounts have been verified; 2058

(8)(a) A provision requiring that the taxpayer, except as 2059
otherwise provided in division (D)(8)(b) of this section, shall 2060
not relocate employment positions from elsewhere in this state to 2061
the project site that is the subject of the agreement for the 2062
lesser of five years from the date the agreement is entered into 2063
or the number of years the taxpayer is entitled to claim the tax 2064
credit. 2065

(b) The taxpayer may relocate employment positions from 2066
elsewhere in this state to the project site that is the subject of 2067
the agreement if the director of development determines both of 2068
the following: 2069

(i) That the site from which the employment positions would 2070
be relocated is inadequate to meet market and industry conditions, 2071
expansion plans, consolidation plans, or other business 2072
considerations affecting the taxpayer; 2073

(ii) That the legislative authority of the county, township, 2074
or municipal corporation from which the employment positions would 2075
be relocated has been notified of the relocation. 2076

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position, but the transfer of an individual employee from one political subdivision to another political subdivision shall not be considered a relocation of an employment position as long as the individual's employment position in the first political subdivision is refilled.

(E) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction of the percentage or term shall take effect in the taxable year immediately following the taxable year in which the authority amends the agreement. If the taxpayer relocates employment positions in violation of the provision required under division (D)(8)(a) of this section, the taxpayer shall not claim the tax credit under section 5733.0610 of the Revised Code for any tax years following the calendar year in which the relocation occurs, or shall not claim the tax credit under section 5747.058 of the Revised Code for the taxable year in which the relocation occurs and any subsequent taxable years.

(F) Projects that consist solely of point-of-final-purchase retail facilities are not eligible for a tax credit under this section. If a project consists of both point-of-final-purchase retail facilities and nonretail facilities, only the portion of the project consisting of the nonretail facilities is eligible for a tax credit and only the new income tax revenue from new employees of the nonretail facilities shall be considered when computing the amount of the tax credit. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility is not eligible for a tax credit. Catalog distribution centers are not considered

point-of-final-purchase retail facilities for the purposes of this 2109
division, and are eligible for tax credits under this section. 2110

(G) Financial statements and other information submitted to 2111
the department of development or the tax credit authority by an 2112
applicant or recipient of a tax credit under this section, and any 2113
information taken for any purpose from such statements or 2114
information, are not public records subject to section 149.43 of 2115
the Revised Code. However, the chairperson of the authority may 2116
make use of the statements and other information for purposes of 2117
issuing public reports or in connection with court proceedings 2118
concerning tax credit agreements under this section. Upon the 2119
request of the tax commissioner, the chairperson of the authority 2120
shall provide to the commissioner any statement or information 2121
submitted by an applicant or recipient of a tax credit in 2122
connection with the credit. The commissioner shall preserve the 2123
confidentiality of the statement or information. 2124

(H) A taxpayer claiming a credit under this section shall 2125
submit to the tax commissioner a copy of the director of 2126
development's certificate of verification under division (D)(7) of 2127
this section for the taxable year. However, failure to submit a 2128
copy of the certificate does not invalidate a claim for a credit. 2129

(I) The director of development, after consultation with the 2130
tax commissioner and in accordance with Chapter 119. of the 2131
Revised Code, shall adopt rules necessary to implement this 2132
section. The rules may provide for recipients of tax credits under 2133
this section to be charged fees to cover administrative costs of 2134
the tax credit program. At the time the director gives public 2135
notice under division (A) of section 119.03 of the Revised Code of 2136
the adoption of the rules, the director shall submit copies of the 2137
proposed rules to the chairpersons of the standing committees on 2138
economic development in the senate and the house of 2139
representatives. 2140

(J) For the purposes of this section, a taxpayer may include 2141
a partnership, a corporation that has made an election under 2142
subchapter S of chapter one of subtitle A of the Internal Revenue 2143
Code, or any other business entity through which income flows as a 2144
distributive share to its owners. A credit received under this 2145
section by a partnership, S-corporation, or other such business 2146
entity shall be apportioned among the persons to whom the income 2147
or profit of the partnership, S-corporation, or other entity is 2148
distributed, in the same proportions as those in which the income 2149
or profit is distributed. 2150

(K) If the director of development determines that a taxpayer 2151
who has received a credit under this section is not complying with 2152
the requirement under division (D)(3) of this section, the 2153
director shall notify the tax credit authority of the 2154
noncompliance. After receiving such a notice, and after giving the 2155
taxpayer an opportunity to explain the noncompliance, the tax 2156
credit authority may require the taxpayer to refund to this state 2157
a portion of the credit in accordance with the following: 2158

(1) If the taxpayer maintained operations at the project 2159
location for at least one and one-half times the number of years 2160
of the term of the tax credit, an amount not exceeding twenty-five 2161
per cent of the sum of any previously allowed credits under this 2162
section; 2163

(2) If the taxpayer maintained operations at the project 2164
location for at least the number of years of the term of the tax 2165
credit, an amount not exceeding fifty per cent of the sum of any 2166
previously allowed credits under this section; 2167

(3) If the taxpayer maintained operations at the project 2168
location for less than the number of years of the term of the tax 2169
credit, an amount not exceeding one hundred per cent of the sum of 2170
any previously allowed credits under this section. 2171

In determining the portion of the tax credit to be refunded 2172
to this state, the tax credit authority shall consider the effect 2173
of market conditions on the taxpayer's project and whether the 2174
taxpayer continues to maintain other operations in this state. 2175
After making the determination, the authority shall certify the 2176
amount to be refunded to the tax commissioner. The commissioner 2177
shall make an assessment for that amount against the taxpayer 2178
under Chapter 5733. or 5747. of the Revised Code. The time 2179
limitations on assessments under Chapter 5733. or 5747. of the 2180
Revised Code do not apply to an assessment under this division, 2181
but the commissioner shall make the assessment within one year 2182
after the date the authority certifies to the commissioner the 2183
amount to be refunded. 2184

(L) On or before the thirty-first day of March each year, the 2185
director of development shall submit a report to the governor, the 2186
president of the senate, and the speaker of the house of 2187
representatives on the tax credit program under this section. The 2188
report shall include information on the number of agreements that 2189
were entered into under this section during the preceding calendar 2190
year, a description of the project that is the subject of each 2191
such agreement, and an update on the status of projects under 2192
agreements entered into before the preceding calendar year. 2193

During the fifth year of the tax credit program, the director 2194
of development in conjunction with the director of budget and 2195
management shall conduct an evaluation of it. The evaluation shall 2196
include assessments of the effectiveness of the program in 2197
creating new jobs in this state and of the revenue impact of the 2198
program, and may include a review of the practices and experiences 2199
of other states with similar programs. The director of development 2200
shall submit a report on the evaluation to the governor, the 2201
president of the senate, and the speaker of the house of 2202
representatives on or before January 1, 1998. 2203

(M) There is hereby created the tax credit authority, which 2204
consists of the director of development and four other members 2205
appointed as follows: the governor, the president of the senate, 2206
and the speaker of the house of representatives each shall appoint 2207
one member who shall be a specialist in economic development; the 2208
governor also shall appoint a member who is a specialist in 2209
taxation. Of the initial appointees, the members appointed by the 2210
governor shall serve a term of two years; the members appointed by 2211
the president of the senate and the speaker of the house of 2212
representatives shall serve a term of four years. Thereafter, 2213
terms of office shall be for four years. Initial appointments to 2214
the authority shall be made within thirty days after January 13, 2215
1993. Each member shall serve on the authority until the end of 2216
the term for which the member was appointed. Vacancies shall be 2217
filled in the same manner provided for original appointments. Any 2218
member appointed to fill a vacancy occurring prior to the 2219
expiration of the term for which the member's predecessor was 2220
appointed shall hold office for the remainder of that term. 2221
Members may be reappointed to the authority. Members of the 2222
authority shall receive their necessary and actual expenses while 2223
engaged in the business of the authority. The director of 2224
development shall serve as chairperson of the authority, and the 2225
members annually shall elect a vice-chairperson from among 2226
themselves. Three members of the authority constitute a quorum to 2227
transact and vote on the business of the authority. The majority 2228
vote of the membership of the authority is necessary to approve 2229
any such business, including the election of the vice-chairperson. 2230

The director of development may appoint a professional 2231
employee of the department of development to serve as the 2232
director's substitute at a meeting of the authority. The director 2233
shall make the appointment in writing. In the absence of the 2234
director from a meeting of the authority, the appointed substitute 2235

shall serve as chairperson. In the absence of both the director 2236
and the director's substitute from a meeting, the vice-chairperson 2237
shall serve as chairperson. 2238

Sec. 122.25. (A) In administering the program established 2239
under section 122.24 of the Revised Code, the director of 2240
development shall do all of the following: 2241

(1) Annually designate, by the first day of January of each 2242
year, the entities that constitute the eligible areas in this 2243
state as defined in section 122.23 of the Revised Code; 2244

(2) Inform local governments and others in the state of the 2245
availability of the program and financial assistance established 2246
under sections 122.23 to 122.27 of the Revised Code; 2247

(3) Report to the governor, president of the senate, speaker 2248
of the house of representatives, and minority leaders of the 2249
senate and the house of representatives by the thirtieth day of 2250
June of each year on the activities carried out under the program 2251
during the preceding calendar year. The report shall include the 2252
number of loans made that year and the amount and recipient of 2253
each loan. 2254

(4) Work in conjunction with conventional lending 2255
institutions, local revolving loan funds, private investors, and 2256
other private and public financing sources to provide loans or 2257
loan guarantees to eligible applicants; 2258

(5) Establish fees, charges, interest rates, payment 2259
schedules, local match requirements, and other terms and 2260
conditions for loans and loan guarantees provided under the loan 2261
program created by section 122.24 of the Revised Code; 2262

(6) Require each applicant to demonstrate the suitability of 2263
any site for the assistance sought; that the site has been 2264
surveyed, has adequate or available utilities, and that there are 2265

no zoning restrictions, environmental regulations, or other	2266
matters impairing the use of the site for the purpose intended;	2267
(7) Require each applicant to provide a marketing plan and	2268
management strategy for the project;	2269
(8) Adopt rules in accordance with Chapter 119. of the	2270
Revised Code establishing all of the following:	2271
(a) Forms and procedures by which eligible applicants may	2272
apply for assistance;	2273
(b) Criteria for reviewing, evaluating, and ranking	2274
applications, and for approving applications that best serve the	2275
goals of the program;	2276
(c) Reporting requirements and monitoring procedures;	2277
(d) Guidelines regarding situations in which industrial parks	2278
would be considered to compete against one another for the	2279
purposes of division (B)(2) of section 122.27 of the Revised Code;	2280
(e) Any other rules necessary to implement and administer the	2281
program created by section 122.24 of the Revised Code.	2282
(B) The director may adopt rules in accordance with Chapter	2283
119. of the Revised Code establishing requirements governing the	2284
use of any industrial park site receiving assistance under section	2285
122.24 of the Revised Code, such that a certain portion of the	2286
site must be used for manufacturing, distribution, high	2287
technology, research and development, or other businesses wherein	2288
a majority of the product or service produced is exported out of	2289
the state.	2290
(C) As a condition to receiving assistance under section	2291
122.24 of the Revised Code, and except as provided in division (D)	2292
of this section, an applicant must agree, for a period of five	2293
years, not to permit the use of a site that is developed or	2294
improved with such assistance to cause the relocation of jobs to	2295

that site from elsewhere in Ohio. 2296

(D) A site developed or improved with assistance under 2297
section 122.24 of the Revised Code may be the site of jobs 2298
relocated from elsewhere in Ohio if the director of development 2299
does all of the following: 2300

(1) Makes a written determination that the site from which 2301
the jobs would be relocated is inadequate to meet market or 2302
industry conditions, expansion plans, consolidation plans, or 2303
other business considerations affecting the relocating employer; 2304

(2) Provides a copy of the determination required by division 2305
(D)(1) of this section to the members of the general assembly 2306
whose legislative districts include the site from which the jobs 2307
would be relocated, ~~and to the joint legislative committee on tax~~ 2308
~~incentives;~~ 2309

(3) Determines that the governing body of the area from which 2310
the jobs would be relocated has been notified in writing by the 2311
relocating company of the possible relocation. 2312

(E) The director of development must obtain the approval of 2313
the controlling board for any loan or loan guarantee provided 2314
under sections 122.23 to 122.27 of the Revised Code. 2315

Sec. 122.651. (A) There is hereby created the clean Ohio 2316
council consisting of the director of development or the 2317
director's designee, the director of environmental protection or 2318
the director's designee, the lieutenant governor or the lieutenant 2319
governor's designee, the director of the Ohio public works 2320
commission as a nonvoting, ex officio member, one member of the 2321
majority party of the senate and one member of the minority party 2322
of the senate to be appointed by the president of the senate, one 2323
member of the majority party of the house of representatives and 2324
one member of the minority party of the house of representatives 2325

to be appointed by the speaker of the house of representatives, 2326
and seven members to be appointed by the governor with the advice 2327
and consent of the senate. Of the members appointed by the 2328
governor, one shall represent the interests of counties, one shall 2329
represent the interests of townships, one shall represent the 2330
interests of municipal corporations, two shall represent the 2331
interests of business and development, and two shall represent 2332
statewide environmental advocacy organizations. The members 2333
appointed by the governor shall reflect the demographic and 2334
economic diversity of the population of the state. Additionally, 2335
the governor's appointments shall represent all areas of the 2336
state. All appointments to the council shall be made not later 2337
than one hundred twenty days after July 26, 2001. 2338

(B) The members appointed by the president of the senate and 2339
speaker of the house of representatives shall serve at the 2340
pleasure of their appointing authorities. Of the initial members 2341
appointed by the governor to the clean Ohio council, four shall be 2342
appointed for two years and three shall be appointed for one year. 2343
Thereafter, terms of office for members appointed by the governor 2344
shall be for two years, with each term ending on the same day of 2345
the same month as did the term that it succeeds. Each of those 2346
members shall hold office from the date of appointment until the 2347
end of the term for which the member is appointed. 2348

Members may be reappointed. Vacancies shall be filled in the 2349
same manner as provided for original appointments. Any member 2350
appointed to fill a vacancy occurring prior to the expiration date 2351
of the term for which the member was appointed shall hold office 2352
for the remainder of that term. A member shall continue in office 2353
after the expiration date of the member's term until the member's 2354
successor takes office or until a period of sixty days has 2355
elapsed, whichever occurs first. The governor may remove a member 2356
appointed by the governor for misfeasance, nonfeasance, or 2357

malfeasance in office. 2358

(C) ~~The director of development~~ governor shall appoint a 2359
member of the clean Ohio council to serve as the chairperson of 2360
the clean Ohio council. The director of development shall serve as 2361
the vice-chairperson of the council unless appointed chairperson. 2362
If the director is appointed chairperson, the council annually 2363
shall select from among its members a vice-chairperson to serve 2364
while the director is chairperson. The council annually shall 2365
select from among its members ~~a vice-chairperson and~~ a secretary 2366
to keep a record of its proceedings. A majority vote of a quorum 2367
of the members of the council is necessary to take action on any 2368
matter. The council may adopt bylaws governing its operation, 2369
including bylaws that establish the frequency of meetings, 2370
procedures for reviewing eligible projects under sections 122.65 2371
to 122.658 of the Revised Code and policies and requirements 2372
established under section 122.657 of the Revised Code, and other 2373
necessary procedures. 2374

(D) Members of the clean Ohio council shall be deemed to be 2375
public officials or officers only for the purposes of section 9.86 2376
and Chapters 102. and 2921. of the Revised Code. Serving as a 2377
member of the clean Ohio council does not constitute holding a 2378
public office or position of employment so as to constitute 2379
grounds for removal of public officers or employees serving as 2380
members of the council from their offices or positions of 2381
employment. Members of the council shall file with the Ohio ethics 2382
commission the disclosure statement described in division (A) of 2383
section 102.02 of the Revised Code on the form prescribed by the 2384
commission and be subject to divisions (C) and (D) of that 2385
section. Members of the council shall serve without compensation 2386
for attending council meetings, but shall receive their actual and 2387
necessary traveling and other expenses incurred in the performance 2388
of their official duties in accordance with the rules of the 2389

office of budget and management. 2390

(E) Members appointed by the governor to represent the 2391
interests of counties, townships, and municipal corporations do 2392
not have a conflict of interest by virtue of their service in the 2393
position. For the purposes of this division, "conflict of 2394
interest" means the taking of any action as a member of the 2395
council that affects a public agency the person serves as an 2396
officer or employee. 2397

(F) The department of development shall provide office space 2398
for the council. The council shall be assisted in its duties by 2399
the staff of the department of development and the environmental 2400
protection agency. 2401

(G) Sections 101.82 to 101.87 of the Revised Code do not 2402
apply to the clean Ohio council. 2403

Sec. 122.658. (A) The clean Ohio revitalization fund is 2404
hereby created in the state treasury. The fund shall consist of 2405
moneys credited to it pursuant to section 151.40 of the Revised 2406
Code. Moneys in the fund shall be used to make grants or loans for 2407
projects that have been approved by the clean Ohio council in 2408
accordance with section 122.653 of the Revised Code, except that 2409
the council annually shall devote twenty per cent of the net 2410
proceeds of obligations deposited in the clean Ohio revitalization 2411
fund for the purposes of section 122.656 of the Revised Code. 2412

Moneys in the clean Ohio revitalization fund may be used to 2413
pay reasonable costs incurred by the department of development and 2414
the environmental protection agency in administering sections 2415
122.65 to 122.658 of the Revised Code. All investment earnings of 2416
the fund shall be credited to the fund. ~~For two years after July~~ 2417
~~26, 2001, investment~~ Investment earnings credited to the clean 2418
Ohio revitalization fund may be used to pay costs incurred by the 2419
department of development and the environmental protection agency 2420

pursuant to sections 122.65 to 122.658 of the Revised Code. 2421

The department of development shall administer the clean Ohio 2422
revitalization fund in accordance with this section, policies and 2423
requirements established under section 122.657 of the Revised 2424
Code, and the terms of agreements entered into by the council 2425
under section 122.653 of the Revised Code. 2426

(B) Grants awarded and loans made under section 122.653 of 2427
the Revised Code shall provide not more than seventy-five per cent 2428
of the estimated total cost of a project. A grant or loan to any 2429
one project shall not exceed three million dollars. An applicant 2430
shall provide at least twenty-five per cent of the estimated total 2431
cost of a project. The applicant's share may consist of one or a 2432
combination of any of the following: 2433

(1) Payment of the cost of acquiring the property for the 2434
purposes of sections 122.65 to 122.658 of the Revised Code; 2435

(2) Payment of the reasonable cost of an assessment at the 2436
property; 2437

(3) The reasonable value, as determined by the council, of 2438
labor and materials that will be contributed by the applicant in 2439
performing the cleanup or remediation; 2440

(4) Moneys received by the applicant in any form for use in 2441
performing the cleanup or remediation; 2442

(5) Loans secured by the applicant for the purpose of the 2443
cleanup or remediation of the brownfield. 2444

Costs that were incurred more than two years prior to the 2445
submission of an application to the clean Ohio council for the 2446
acquisition of property, assessments, and labor and materials 2447
shall not be used as part of the applicant's matching share. 2448

(C) The department of development shall not make any payment 2449
to an applicant from the clean Ohio revitalization fund to pay 2450

costs of the applicant that were not included in an application 2451
for a grant or loan under section 122.653 of the Revised Code or 2452
that exceed the amount of the estimated total cost of the project 2453
included in the application. If, upon completion of a project, the 2454
costs of the project are less than the amounts included in the 2455
application, the amounts included in the application less the 2456
amounts of the actual costs of the project shall be credited to 2457
the clean Ohio revitalization fund. However, the amounts credited 2458
shall be equivalent in percentage to the percentage of the costs 2459
of the project that were to be funded by the grant or loan from 2460
the fund. 2461

(D) Grants awarded or loans made under section 122.653 of the 2462
Revised Code from the clean Ohio revitalization fund shall be used 2463
by an applicant only to pay the costs of the actual cleanup or 2464
remediation of a brownfield and shall not be used by an applicant 2465
to pay any administrative costs incurred by the applicant. Costs 2466
related to the use of a certified professional for purposes of 2467
section 122.654 of the Revised Code are not administrative costs 2468
and may be paid with moneys from grants awarded or loans made 2469
under section 122.653 of the Revised Code. 2470

(E) The portion of net proceeds of obligations devoted under 2471
division (A) of this section for the purposes of section 122.656 2472
of the Revised Code shall be used to make grants for assessments, 2473
cleanup or remediation of brownfields, and public health projects 2474
that have been approved by the director of development under that 2475
section. The department of development shall administer section 2476
122.656 of the Revised Code in accordance with this section, 2477
policies and requirements established under section 122.657 of the 2478
Revised Code, and the terms of agreements entered into by the 2479
director under section 122.656 of the Revised Code. The director 2480
shall not grant more than twenty-five million dollars for public 2481
health projects under section 122.656 of the Revised Code. 2482

(F) Grants awarded under section 122.656 of the Revised Code 2483
shall be used by an applicant only to pay the costs of actually 2484
conducting an assessment, a cleanup or remediation of a 2485
brownfield, or a public health project and shall not be used by an 2486
applicant to pay any administrative costs incurred by the 2487
applicant. Costs related to the use of a certified professional 2488
for purposes of section 122.654 of the Revised Code are not 2489
administrative costs and may be paid with moneys from grants 2490
awarded under section 122.656 of the Revised Code. 2491

(G)(1) The clean Ohio revitalization revolving loan fund is 2492
hereby created in the state treasury. Payments of principal and 2493
interest on loans made from the clean Ohio revitalization fund 2494
shall be credited to this revolving loan fund, as shall payments 2495
of principal and interest on loans made from the revolving loan 2496
fund itself. The revolving loan fund's investment earnings shall 2497
be credited to it. 2498

(2) The clean Ohio revitalization revolving loan fund shall 2499
be used to make loans for the same purposes and subject to the 2500
same policies, requirements, criteria, and application procedures 2501
as loans made from the clean Ohio revitalization fund. 2502

Sec. 122.87. As used in sections 122.87 to ~~122.89~~ 122.90 of 2503
the Revised Code: 2504

(A) "Surety company" means a company that is authorized by 2505
the department of insurance to issue bonds as surety. 2506

(B) "Minority business" means any of the following 2507
occupations: 2508

(1) Minority construction contractor; 2509

(2) Minority seller; 2510

(3) Minority service vendor. 2511

(C) "Minority construction contractor" means a person who is 2512
both a construction contractor and an owner of a minority business 2513
enterprise certified under division (B) of section 123.151 of the 2514
Revised Code. 2515

(D) "Minority seller" means a person who is both a seller of 2516
goods and an owner of a minority business enterprise listed on the 2517
special minority business enterprise bid notification list under 2518
division (B) of section 125.08 of the Revised Code. 2519

(E) "Minority service vendor" means a person who is both a 2520
vendor of services and an owner of a minority business enterprise 2521
listed on the special minority business enterprise bid 2522
notification list under division (B) of section 125.08 of the 2523
Revised Code. 2524

(F) "Minority business enterprise" has the meaning given in 2525
section 122.71 of the Revised Code. 2526

(G) "EDGE business enterprise" means a sole proprietorship, 2527
association, partnership, corporation, limited liability 2528
corporation, or joint venture certified as a participant in the 2529
encouraging diversity, growth, and equity program by the director 2530
of administrative services under section 123.152 of the Revised 2531
Code. 2532

Sec. 122.88. (A) There is hereby created in the state 2533
treasury the minority business bonding fund, consisting of moneys 2534
deposited or credited to it pursuant to section 169.05 of the 2535
Revised Code; all grants, gifts, and contributions received 2536
pursuant to division (B)(9) of section 122.74 of the Revised Code; 2537
all moneys recovered following defaults; and any other moneys 2538
obtained by the director of development for the purposes of 2539
sections 122.87 to ~~122.89~~ 122.90 of the Revised Code. The fund 2540
shall be administered by the director. Moneys in the fund shall be 2541

held in trust for the purposes of sections 122.87 to ~~122.89~~ 122.90 2542
of the Revised Code. 2543

(B) Any claims against the state arising from defaults shall 2544
be payable from the minority business bonding program 2545
administrative and loss reserve fund as provided in division (C) 2546
of this section or from the minority business bonding fund. 2547
Nothing in sections 122.87 to ~~122.89~~ 122.90 of the Revised Code 2548
grants or pledges to any obligee or other person any state moneys 2549
other than the moneys in the minority business bonding program 2550
administrative and loss reserve fund or the minority business 2551
bonding fund, or moneys available to the minority business bonding 2552
fund upon request of the director in accordance with division (B) 2553
of section 169.05 of the Revised Code. 2554

(C) There is hereby created in the state treasury the 2555
minority business bonding program administrative and loss reserve 2556
fund, consisting of all premiums charged and collected in 2557
accordance with section 122.89 of the Revised Code and any 2558
interest income earned from the moneys in the minority business 2559
bonding fund. All expenses of the director and the minority 2560
development financing advisory board in carrying out the purposes 2561
of sections 122.87 to ~~122.89~~ 122.90 of the Revised Code shall be 2562
paid from the minority business bonding program administrative and 2563
loss reserve fund. 2564

Any moneys to the credit of the minority business bonding 2565
program administrative and loss reserve fund in excess of the 2566
amount necessary to fund the appropriation authority for the 2567
minority business bonding program administrative and loss reserve 2568
fund shall be held as a loss reserve to pay claims arising from 2569
defaults on surety bonds underwritten in accordance with section 2570
122.89 of the Revised Code or guaranteed in accordance with 2571
section 122.90 of the Revised Code. If the balance of funds in the 2572
minority business bonding program administrative and loss reserve 2573

fund is insufficient to pay a claim against the state arising from 2574
default, then such claim shall be payable from the minority 2575
business bonding fund. 2576

Sec. 122.90. (A) The director of development may guarantee 2577
bonds executed by sureties for minority businesses and EDGE 2578
business enterprises certified under section 123.152 of the 2579
Revised Code as principals on contracts with the state, any 2580
political subdivision or instrumentality, or any person as the 2581
obligee. The director, as guarantor, may exercise all the rights 2582
and powers of a company authorized by the department of insurance 2583
to guarantee bonds under Chapter 3929. of the Revised Code but 2584
otherwise is not subject to any laws related to a guaranty company 2585
under Title XXXIX of the Revised Code nor to any rules of the 2586
department of insurance. 2587

(B) The director shall adopt rules under Chapter 119. of the 2588
Revised Code to establish procedures for the application for bond 2589
guarantees and the review and approval of applications for bond 2590
guarantees submitted by sureties that execute bonds eligible for 2591
guarantees under division (A) of this section. 2592

(C) In accordance with rules adopted pursuant to this 2593
section, the director may guarantee up to ninety per cent of the 2594
loss incurred and paid by sureties on bonds guaranteed under 2595
division (A) of this section. 2596

(D) The penal sum amounts of all outstanding guarantees made 2597
by the director under this section shall not exceed three times 2598
the difference between the amount of moneys in the minority 2599
business bonding fund and available to the fund under division (B) 2600
of section 169.05 of the Revised Code and the amount of all 2601
outstanding bonds issued by the director in accordance with 2602
division (A) of section 122.89 of the Revised Code. 2603

Sec. 123.01. (A) The department of administrative services, 2604
in addition to those powers enumerated in Chapters 124. and 125. 2605
of the Revised Code, and as provided elsewhere by law, shall 2606
exercise the following powers: 2607

(1) To prepare, or contract to be prepared, by licensed 2608
engineers or architects, surveys, general and detailed plans, 2609
specifications, bills of materials, and estimates of cost for any 2610
projects, improvements, or public buildings to be constructed by 2611
state agencies that may be authorized by legislative 2612
appropriations or any other funds made available therefor, 2613
provided that the construction of the projects, improvements, or 2614
public buildings is a statutory duty of the department. This 2615
section does not require the independent employment of an 2616
architect or engineer as provided by section 153.01 of the Revised 2617
Code in the cases to which that section applies nor affect or 2618
alter the existing powers of the director of transportation. 2619

(2) To have general supervision over the construction of any 2620
projects, improvements, or public buildings constructed for a 2621
state agency and over the inspection of materials previous to 2622
their incorporation into those projects, improvements, or 2623
buildings; 2624

(3) To make contracts for and supervise the construction of 2625
any projects and improvements or the construction and repair of 2626
buildings under the control of a state agency, except contracts 2627
for the repair of buildings under the management and control of 2628
the departments of public safety, job and family services, mental 2629
health, mental retardation and developmental disabilities, 2630
rehabilitation and correction, and youth services, the bureau of 2631
workers' compensation, the rehabilitation services commission, and 2632
boards of trustees of educational and benevolent institutions. 2633
These contracts shall be made and entered into by the directors of 2634

public safety, job and family services, mental health, mental 2635
retardation and developmental disabilities, rehabilitation and 2636
correction, and youth services, the administrator of workers' 2637
compensation, the rehabilitation services commission, and the 2638
boards of trustees of such institutions, respectively. All such 2639
contracts may be in whole or in part on unit price basis of 2640
maximum estimated cost, with payment computed and made upon actual 2641
quantities or units. 2642

(4) To prepare and suggest comprehensive plans for the 2643
development of grounds and buildings under the control of a state 2644
agency; 2645

(5) To acquire, by purchase, gift, devise, lease, or grant, 2646
all real estate required by a state agency, in the exercise of 2647
which power the department may exercise the power of eminent 2648
domain, in the manner provided by sections 163.01 to 163.22 of the 2649
Revised Code; 2650

(6) To make and provide all plans, specifications, and models 2651
for the construction and perfection of all systems of sewerage, 2652
drainage, and plumbing for the state in connection with buildings 2653
and grounds under the control of a state agency; 2654

(7) To erect, supervise, and maintain all public monuments 2655
and memorials erected by the state, except where the supervision 2656
and maintenance is otherwise provided by law; 2657

(8) To procure, by lease, storage accommodations for a state 2658
agency; 2659

(9) To lease or grant easements or licenses for unproductive 2660
and unused lands or other property under the control of a state 2661
agency. Such leases, easements, or licenses shall be granted for a 2662
period not to exceed fifteen years and shall be executed for the 2663
state by the director of administrative services and the governor 2664
and shall be approved as to form by the attorney general, provided 2665

that leases, easements, or licenses may be granted to any county, 2666
township, municipal corporation, port authority, water or sewer 2667
district, school district, library district, health district, park 2668
district, soil and water conservation district, conservancy 2669
district, or other political subdivision or taxing district, or 2670
any agency of the United States government, for the exclusive use 2671
of that agency, political subdivision, or taxing district, without 2672
any right of sublease or assignment, for a period not to exceed 2673
fifteen years, and provided that the director shall grant leases, 2674
easements, or licenses of university land for periods not to 2675
exceed twenty-five years for purposes approved by the respective 2676
university's board of trustees wherein the uses are compatible 2677
with the uses and needs of the university and may grant leases of 2678
university land for periods not to exceed forty years for purposes 2679
approved by the respective university's board of trustees pursuant 2680
to section 123.77 of the Revised Code. 2681

(10) To lease office space in buildings for the use of a 2682
state agency; 2683

(11) To have general supervision and care of the storerooms, 2684
offices, and buildings leased for the use of a state agency; 2685

(12) To exercise general custodial care of all real property 2686
of the state; 2687

(13) To assign and group together state offices in any city 2688
in the state and to establish, in cooperation with the state 2689
agencies involved, rules governing space requirements for office 2690
or storage use; 2691

(14) To lease for a period not to exceed forty years, 2692
pursuant to a contract providing for the construction thereof 2693
under a lease-purchase plan, buildings, structures, and other 2694
improvements for any public purpose, and, in conjunction 2695
therewith, to grant leases, easements, or licenses for lands under 2696

the control of a state agency for a period not to exceed forty 2697
years. The lease-purchase plan shall provide that at the end of 2698
the lease period, the buildings, structures, and related 2699
improvements, together with the land on which they are situated, 2700
shall become the property of the state without cost. 2701

(a) Whenever any building, structure, or other improvement is 2702
to be so leased by a state agency, the department shall retain 2703
either basic plans, specifications, bills of materials, and 2704
estimates of cost with sufficient detail to afford bidders all 2705
needed information or, alternatively, all of the following plans, 2706
details, bills of materials, and specifications: 2707

(i) Full and accurate plans suitable for the use of mechanics 2708
and other builders in the improvement; 2709

(ii) Details to scale and full sized, so drawn and 2710
represented as to be easily understood; 2711

(iii) Accurate bills showing the exact quantity of different 2712
kinds of material necessary to the construction; 2713

(iv) Definite and complete specifications of the work to be 2714
performed, together with such directions as will enable a 2715
competent mechanic or other builder to carry them out and afford 2716
bidders all needed information; 2717

(v) A full and accurate estimate of each item of expense and 2718
of the aggregate cost thereof. 2719

(b) The department shall give public notice, in such 2720
newspaper, in such form, and with such phraseology as the director 2721
of administrative services prescribes, published once each week 2722
for four consecutive weeks, of the time when and place where bids 2723
will be received for entering into an agreement to lease to a 2724
state agency a building, structure, or other improvement. The last 2725
publication shall be at least eight days preceding the day for 2726
opening the bids. The bids shall contain the terms upon which the 2727

builder would propose to lease the building, structure, or other 2728
improvement to the state agency. The form of the bid approved by 2729
the department shall be used, and a bid is invalid and shall not 2730
be considered unless that form is used without change, alteration, 2731
or addition. Before submitting bids pursuant to this section, any 2732
builder shall comply with Chapter 153. of the Revised Code. 2733

(c) On the day and at the place named for receiving bids for 2734
entering into lease agreements with a state agency, the director 2735
of administrative services shall open the bids and shall publicly 2736
proceed immediately to tabulate the bids upon duplicate sheets. No 2737
lease agreement shall be entered into until the bureau of workers' 2738
compensation has certified that the person to be awarded the lease 2739
agreement has complied with Chapter 4123. of the Revised Code, 2740
until, if the builder submitting the lowest and best bid is a 2741
foreign corporation, the secretary of state has certified that the 2742
corporation is authorized to do business in this state, until, if 2743
the builder submitting the lowest and best bid is a person 2744
nonresident of this state, the person has filed with the secretary 2745
of state a power of attorney designating the secretary of state as 2746
its agent for the purpose of accepting service of summons in any 2747
action brought under Chapter 4123. of the Revised Code, and until 2748
the agreement is submitted to the attorney general and the 2749
attorney general's approval is certified thereon. Within thirty 2750
days after the day on which the bids are received, the department 2751
shall investigate the bids received and shall determine that the 2752
bureau and the secretary of state have made the certifications 2753
required by this section of the builder who has submitted the 2754
lowest and best bid. Within ten days of the completion of the 2755
investigation of the bids, the department shall award the lease 2756
agreement to the builder who has submitted the lowest and best bid 2757
and who has been certified by the bureau and secretary of state as 2758
required by this section. If bidding for the lease agreement has 2759
been conducted upon the basis of basic plans, specifications, 2760

bills of materials, and estimates of costs, upon the award to the 2761
builder the department, or the builder with the approval of the 2762
department, shall appoint an architect or engineer licensed in 2763
this state to prepare such further detailed plans, specifications, 2764
and bills of materials as are required to construct the building, 2765
structure, or improvement. The department shall adopt such rules 2766
as are necessary to give effect to this section. The department 2767
may reject any bid. Where there is reason to believe there is 2768
collusion or combination among bidders, the bids of those 2769
concerned therein shall be rejected. 2770

(15) To acquire by purchase, gift, devise, or grant and to 2771
transfer, lease, or otherwise dispose of all real property 2772
required to assist in the development of a conversion facility as 2773
defined in section 5709.30 of the Revised Code as that section 2774
existed before its repeal by . B. of the 125th general 2775
assembly; 2776

(16) To lease for a period not to exceed forty years, 2777
notwithstanding any other division of this section, the 2778
state-owned property located at 408-450 East Town Street, 2779
Columbus, Ohio, formerly the state school for the deaf, to a 2780
developer in accordance with this section. "Developer," as used in 2781
this section, has the same meaning as in section 123.77 of the 2782
Revised Code. 2783

Such a lease shall be for the purpose of development of the 2784
land for use by senior citizens by constructing, altering, 2785
renovating, repairing, expanding, and improving the site as it 2786
existed on June 25, 1982. A developer desiring to lease the land 2787
shall prepare for submission to the department a plan for 2788
development. Plans shall include provisions for roads, sewers, 2789
water lines, waste disposal, water supply, and similar matters to 2790
meet the requirements of state and local laws. The plans shall 2791
also include provision for protection of the property by insurance 2792

or otherwise, and plans for financing the development, and shall 2793
set forth details of the developer's financial responsibility. 2794

The department may employ, as employees or consultants, 2795
persons needed to assist in reviewing the development plans. Those 2796
persons may include attorneys, financial experts, engineers, and 2797
other necessary experts. The department shall review the 2798
development plans and may enter into a lease if it finds all of 2799
the following: 2800

(a) The best interests of the state will be promoted by 2801
entering into a lease with the developer; 2802

(b) The development plans are satisfactory; 2803

(c) The developer has established the developer's financial 2804
responsibility and satisfactory plans for financing the 2805
development. 2806

The lease shall contain a provision that construction or 2807
renovation of the buildings, roads, structures, and other 2808
necessary facilities shall begin within one year after the date of 2809
the lease and shall proceed according to a schedule agreed to 2810
between the department and the developer or the lease will be 2811
terminated. The lease shall contain such conditions and 2812
stipulations as the director considers necessary to preserve the 2813
best interest of the state. Moneys received by the state pursuant 2814
to this lease shall be paid into the general revenue fund. The 2815
lease shall provide that at the end of the lease period the 2816
buildings, structures, and related improvements shall become the 2817
property of the state without cost. 2818

(17) To lease to any person any tract of land owned by the 2819
state and under the control of the department, or any part of such 2820
a tract, for the purpose of drilling for or the pooling of oil or 2821
gas. Such a lease shall be granted for a period not exceeding 2822
forty years, with the full power to contract for, determine the 2823

conditions governing, and specify the amount the state shall 2824
receive for the purposes specified in the lease, and shall be 2825
prepared as in other cases. 2826

(B) This section and section 125.02 of the Revised Code shall 2827
not interfere with any of the following: 2828

(1) The power of the adjutant general to purchase military 2829
supplies, or with the custody of the adjutant general of property 2830
leased, purchased, or constructed by the state and used for 2831
military purposes, or with the functions of the adjutant general 2832
as director of state armories; 2833

(2) The power of the director of transportation in acquiring 2834
rights-of-way for the state highway system, or the leasing of 2835
lands for division or resident district offices, or the leasing of 2836
lands or buildings required in the maintenance operations of the 2837
department of transportation, or the purchase of real property for 2838
garage sites or division or resident district offices, or in 2839
preparing plans and specifications for and constructing such 2840
buildings as the director may require in the administration of the 2841
department; 2842

(3) The power of the director of public safety and the 2843
registrar of motor vehicles to purchase or lease real property and 2844
buildings to be used solely as locations to which a deputy 2845
registrar is assigned pursuant to division (B) of section 4507.011 2846
of the Revised Code and from which the deputy registrar is to 2847
conduct the deputy registrar's business, the power of the director 2848
of public safety to purchase or lease real property and buildings 2849
to be used as locations for division or district offices as 2850
required in the maintenance of operations of the department of 2851
public safety, and the power of the superintendent of the state 2852
highway patrol in the purchase or leasing of real property and 2853
buildings needed by the patrol, to negotiate the sale of real 2854
property owned by the patrol, to rent or lease real property owned 2855

or leased by the patrol, and to make or cause to be made repairs 2856
to all property owned or under the control of the patrol; 2857

(4) The power of the division of liquor control in the 2858
leasing or purchasing of retail outlets and warehouse facilities 2859
for the use of the division; 2860

(5) The power of the director of development to enter into 2861
leases of real property, buildings, and office space to be used 2862
solely as locations for the state's foreign offices to carry out 2863
the purposes of section 122.05 of the Revised Code. 2864

(C) Purchases for, and the custody and repair of, buildings 2865
under the management and control of the capitol square review and 2866
advisory board, the rehabilitation services commission, the bureau 2867
of workers' compensation, or the departments of public safety, job 2868
and family services, mental health, mental retardation and 2869
developmental disabilities, and rehabilitation and correction, and 2870
buildings of educational and benevolent institutions under the 2871
management and control of boards of trustees, are not subject to 2872
the control and jurisdiction of the department of administrative 2873
services. 2874

(D) Any instrument by which real property is acquired 2875
pursuant to this section shall identify the agency of the state 2876
that has the use and benefit of the real property as specified in 2877
section 5301.012 of the Revised Code. 2878

Sec. 123.152. (A) As used in this section, "EDGE business 2879
enterprise" means a sole proprietorship, association, partnership, 2880
corporation, limited liability corporation, or joint venture 2881
certified as a participant in the encouraging diversity, growth, 2882
and equity program by the director of administrative services 2883
under this section of the Revised Code. 2884

(B) The director of administrative services shall establish a 2885

business assistance program known as the encouraging diversity, growth, and equity program and shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the program and that do all of the following:

(1) Establish procedures by which a sole proprietorship, association, partnership, corporation, limited liability corporation, or joint venture may apply for certification as an EDGE business enterprise;

(2) Establish agency procurement goals for contracting with EDGE business enterprises in the award of contracts under Chapters 123., 125., and 153. of the Revised Code based on the availability of eligible program participants by region or geographic area, as determined by the director, and by standard industrial code.

(a) Goals established under division (B)(2) of this section shall be based on a percentage level of participation and a percentage of contractor availability.

(b) Goals established under division (B)(2) of this section shall be applied at the contract level, relative to an overall dollar goal for each state agency, in accordance with the following certification categories: construction, architecture, and engineering; professional services; goods and services; and information technology services.

(3) Establish a system of certifying EDGE business enterprises based on a requirement that the business owner or owners show both social and economic disadvantage based on the following, as determined to be sufficient by the director:

(a) Relative wealth of the business seeking certification as well as the personal wealth of the owner or owners of the business;

(b) Social disadvantage based on any of the following:

<u>(i) A rebuttable presumption when the business owner or</u>	2916
<u>owners demonstrate membership in a racial minority group or show</u>	2917
<u>personal disadvantage due to color, ethnic origin, gender,</u>	2918
<u>physical disability, long-term residence in an environment</u>	2919
<u>isolated from the mainstream of American society, location in an</u>	2920
<u>area of high unemployment;</u>	2921
<u>(ii) Some other demonstration of personal disadvantage not</u>	2922
<u>common to other small businesses;</u>	2923
<u>(iii) By business location in a qualified census tract.</u>	2924
<u>(c) Economic disadvantage based on economic and business size</u>	2925
<u>thresholds and eligibility criteria designed to stimulate economic</u>	2926
<u>development through contract awards to businesses located in</u>	2927
<u>qualified census tracts.</u>	2928
<u>(4) Establish standards to determine when an EDGE business</u>	2929
<u>enterprise no longer qualifies for EDGE business enterprise</u>	2930
<u>certification;</u>	2931
<u>(5) Develop a process for evaluating and adjusting goals</u>	2932
<u>established by this section to determine what adjustments are</u>	2933
<u>necessary to achieve participation goals established by the</u>	2934
<u>director;</u>	2935
<u>(6) Establish a point system to evaluate bid proposals to</u>	2936
<u>encourage EDGE business enterprises to participate in the</u>	2937
<u>procurement of professional design and information technology</u>	2938
<u>services;</u>	2939
<u>(7) Establish a system to track data and analyze each</u>	2940
<u>certification category established under division (B)(2)(b) of</u>	2941
<u>this section;</u>	2942
<u>(8) Establish a process to mediate complaints and to review</u>	2943
<u>EDGE business enterprise certification appeals;</u>	2944
<u>(9) Implement an outreach program to educate potential</u>	2945

participants about the encouraging diversity, growth, and equity 2946
program; 2947

(10) Establish a system to assist state agencies in 2948
identifying and utilizing EDGE business enterprises in their 2949
contracting processes; 2950

(11) Implement a system of self-reporting by EDGE business 2951
enterprises as well as an on-site inspection process to validate 2952
the qualifications of an EDGE business enterprise; 2953

(12) Establish a waiver mechanism to waive program goals or 2954
participation requirements for those companies that, despite their 2955
best-documented efforts, are unable to contract with certified 2956
EDGE business enterprises; 2957

(13) Establish a process for monitoring overall program 2958
compliance in which equal employment opportunity officers 2959
primarily are responsible for monitoring their respective 2960
agencies. 2961

(C) Not later than December 31, 2003, the director of 2962
administrative services shall prepare a detailed report to the 2963
governor outlining and evaluating the progress made in 2964
implementing the encouraging diversity, growth, and equity 2965
program. 2966

Sec. 123.153. The director of development shall do all of the 2967
following with regard to the encouraging diversity, growth, and 2968
equity program created under section 123.152 of the Revised Code: 2969

(A) Conduct outreach, marketing, and recruitment of EDGE 2971
business enterprises; 2972

(B) Provide assistance to the department of administrative 2973
services, as needed, to certify new EDGE business enterprises and 2974
to train appropriate state agency staff; 2975

(C) Provide business development services to EDGE business enterprises in the developmental and transitional stages of the program, including financial and bonding and management and technical assistance; 2976
2977
2978
2979

(D) Develop a mentor program to bring businesses into a working relationship with EDGE business enterprises in a way that commercially benefits both entities and serves the purpose of the EDGE program; 2980
2981
2982
2983

(E) Not later than December 31, 2003, prepare a detailed report to the governor outlining and evaluating the progress made in implementing the encouraging diversity, growth, and equity program; 2984
2985
2986
2987

(F) Establish processes by which an EDGE business enterprise may apply for contract assistance, financial and bonding assistance, management and technical assistance, and mentoring opportunities. 2988
2989
2990
2991

Sec. 124.03. The state personnel board of review shall 2992
exercise the following powers and perform the following duties: 2993

(A) Hear appeals, as provided by law, of employees in the 2994
classified state service from final decisions of appointing 2995
authorities or the director of administrative services relative to 2996
reduction in pay or position, job abolishments, layoff, 2997
suspension, discharge, assignment or reassignment to a new or 2998
different position classification, or refusal of the director, or 2999
anybody authorized to perform the director's functions, to 3000
reassign an employee to another classification or to reclassify 3001
the employee's position with or without a job audit under division 3002
(D) of section 124.14 of the Revised Code. As used in this 3003
division, "discharge" includes disability separations. ~~The~~ 3004

The board may affirm, disaffirm, or modify the decisions of 3005

the appointing authorities or the director, as the case may be, 3006
and its decision is final. The board's decisions shall be 3007
consistent with the applicable classification specifications. ~~The~~ 3008

The board shall not be deprived of jurisdiction to hear any 3009
appeal due to the failure of an appointing authority to file its 3010
decision with the board. Any final decision of an appointing 3011
authority or of the director not filed in the manner provided in 3012
this chapter shall be disaffirmed. ~~The~~ 3013

The board may place an exempt employee, as defined in section 3014
124.152 of the Revised Code, into a bargaining unit 3015
classification, if the board determines that the bargaining unit 3016
classification is the proper classification for that employee. 3017
Notwithstanding Chapter 4117. of the Revised Code or instruments 3018
and contracts negotiated under it, such placements are at the 3019
board's discretion. 3020

In any hearing before the board, including any hearing at 3021
which a record is taken that may be the basis of an appeal to a 3022
court, an employee may be represented by a person permitted to 3023
practice before the board who is not an attorney at law ~~so~~ as long 3024
as the person does not receive any compensation from the employee 3025
for ~~such~~ the representation. 3026

(B) Hear appeals, as provided by law, of appointing 3027
authorities from final decisions of the director relative to the 3028
classification or reclassification of any position in the 3029
classified state service under the jurisdiction of ~~such~~ that 3030
appointing authority. The board may affirm, disaffirm, or modify 3031
the decisions of the director, and its decision is final. The 3032
board's decisions shall be consistent with the applicable 3033
classification specifications. 3034

(C) Exercise the authority provided by section 124.40 of the 3035
Revised Code, for appointment, removal, and supervision of 3036

municipal and civil service township civil service commissions; 3037

(D) Appoint a secretary, referees, examiners, and whatever 3038
other employees are necessary in the exercise of its powers and 3039
performance of its duties and functions. The board shall determine 3040
appropriate education and experience requirements for its 3041
secretary, referees, examiners, and other employees and shall 3042
prescribe their duties. A referee or examiner does not need to 3043
have been admitted to the practice of law. 3044

(E) Maintain a journal ~~which~~ that shall be open to public 3045
inspection, in which it shall keep a record of all of its 3046
proceedings and of the vote of each of its members upon every 3047
action taken by it; 3048

(F) Adopt rules in accordance with Chapter 119. of the 3049
Revised Code relating to the procedure of the board in 3050
administering the laws ~~which~~ it has the authority or duty to 3051
administer and for the purpose of invoking the jurisdiction of the 3052
board in hearing appeals of appointing authorities and employees 3053
in matters set forth in divisions (A) and (B) of this section; 3054

(G) Subpoena and require the attendance and testimony of 3055
witnesses and the production of books, papers, public records, and 3056
other documentary evidence pertinent to any matter ~~which~~ it has 3057
authority to investigate, inquire into, or hear in the same manner 3058
and to the same extent as provided by division (G) of section 3059
124.09 of the Revised Code. All witness fees shall be paid in the 3060
manner set forth in that division. 3061

(H) The board shall be funded by general revenue fund 3062
appropriations. All moneys received by the board for copies of 3063
documents, rule books, and transcriptions shall be paid into the 3064
state treasury to the credit of the transcript and other documents 3065
fund, which is hereby created to defray the cost of ~~furnishing or~~ 3066
~~making available such copies, rule books, and transcriptions~~ 3067

producing an administrative record. 3068

Sec. 125.05. Except as provided in division (E) of this 3069
section, no state agency shall purchase any supplies or services 3070
except as provided in divisions (A) to (C) of this section. 3071

(A) Subject to division (D) of this section, a state agency 3072
may, without competitive selection, make any purchase of services 3073
that cost fifty thousand dollars or less or any purchase of 3074
supplies that cost twenty-five thousand dollars or less. The 3075
agency may make the purchase directly or may make the purchase 3076
from or through the department of administrative services, 3077
whichever the agency determines. The department shall establish 3078
written procedures to assist state agencies when they make direct 3079
purchases. If the agency makes the purchase directly, it shall 3080
make the purchase by a term contract whenever possible. 3081

(B) Subject to division (D) of this section, a state agency 3082
wanting to purchase services that cost more than fifty thousand 3083
dollars or supplies that cost more than twenty-five thousand 3084
dollars shall, unless otherwise authorized by law, make the 3085
purchase from or through the department. The department shall make 3086
the purchase by competitive selection under section 125.07 of the 3087
Revised Code. If the director of administrative services 3088
determines that it is not possible or not advantageous to the 3089
state for the department to make the purchase, the department 3090
shall grant the agency a release and permit under section 125.06 3091
of the Revised Code to make the purchase. Section 127.16 of the 3092
Revised Code does not apply to purchases the department makes 3093
under this section. 3094

(C) An agency that has been granted a release and permit to 3095
make a purchase may make the purchase without competitive 3096
selection if after making the purchase the cumulative purchase 3097
threshold as computed under division (F) of section 127.16 of the 3098

Revised Code would:	3099
(1) Be exceeded and the controlling board approves the purchase;	3100 3101
(2) Not be exceeded and the department of administrative services approves the purchase.	3102 3103
(D) Not later than January 31, 1997, the amounts specified in divisions (A) and (B) of this section and, not later than the thirty-first day of January of each second year thereafter, any amounts computed by adjustments made under this division, shall be increased or decreased by the average percentage increase or decrease in the consumer price index prepared by the United States bureau of labor statistics (U.S. City Average for Urban Wage Earners and Clerical Workers: "All Items 1982-1984=100") for the twenty-four calendar month period prior to the immediately preceding first day of January over the immediately preceding twenty-four calendar month period, as reported by the bureau. The director of administrative services shall make this determination and adjust the appropriate amounts accordingly.	3104 3105 3106 3107 3108 3109 3110 3111 3112 3113 3114 3115 3116
(E) If the Ohio SchoolNet commission, the department of education, or the Ohio education computer network determines that it can purchase software services or supplies for specified school districts at a price less than the price for which the districts could purchase the same software services or supplies for themselves, the office, department, or network shall certify that fact to the department of administrative services and, acting as an agent for the specified school districts, shall make that purchase without following the provisions in divisions (A) to (D) of this section.	3117 3118 3119 3120 3121 3122 3123 3124 3125 3126
Sec. 125.15. All state agencies required to secure any equipment, materials, supplies, <u>or services,</u> or contracts of insurance from the department of administrative services shall	3127 3128 3129

make acquisition in the manner and upon forms prescribed by the 3130
director of administrative services and shall reimburse the 3131
department for the equipment, materials, supplies, or services, ~~or~~ 3132
~~contracts of insurance~~, including a reasonable sum to cover the 3133
department's administrative costs, whenever reimbursement is 3134
required by the department. The money so paid shall be deposited 3135
in the state treasury to the credit of the general services fund 3136
or the information technology fund, as appropriate. ~~Such~~ Those 3137
funds are hereby created. 3138

Sec. 125.91. As used in sections 125.92 to 125.98 of the 3139
Revised Code: 3140

(A) "State agency" includes every department, bureau, board, 3141
commission, office, or other organized body established by the 3142
constitution and laws of the state for the exercise of any 3143
function of state government, but does not include any 3144
state-supported institution of higher education, the general 3145
assembly or any legislative agency, the attorney general, the 3146
auditor of state, the secretary of state, the treasurer of state, 3147
the bureau of workers' compensation, any court or judicial agency, 3148
or any political subdivision or agency ~~thereof~~ of a political 3149
subdivision. 3150

(B) "Form" means any document, device, or item used to convey 3151
information, regardless of medium, that has blank spaces for the 3152
insertion of information and that may have a predetermined format 3153
and data elements to guide the entry, ~~interpretation~~ 3154
interpretation, and use of the information. "Form" does not 3155
include letterheads, envelopes, labels, tags, tickets, or note 3156
pads, or forms mandated by the federal government, but does 3157
include all computer-generated forms except those mandated by the 3158
federal government. ~~As used in sections 125.931 to 125.935 of the~~ 3159
~~Revised Code, "form" applies only to a form that is used by a~~ 3160

~~state agency and that is completed in whole or in part by private
business, political subdivisions, or the public.~~ 3161
3162

Sec. 125.92. There is hereby established in the department of 3163
administrative services a state forms management ~~control center~~ 3164
program, which shall be under the control and supervision of the 3165
director of administrative services, ~~who shall appoint an~~ 3166
~~administrator of the center~~ or the director's designee. 3167

The ~~center~~ state forms management program shall ~~develop,~~ 3168
~~implement, and maintain a statewide forms management program that~~ 3169
~~involves~~ be developed, implemented, and maintained for all state 3170
agencies and ~~is~~ be designed to simplify, consolidate, or 3171
eliminate, when expedient, forms, surveys, and other documents 3172
used by state agencies. In developing the program, particular 3173
emphasis shall be placed upon determining the actual need for any 3174
information, records, and reports sought from private business, 3175
agriculture, and local governments through the use of ~~such~~ forms, 3176
surveys, and other documents. 3177

Sec. 125.93. The state forms management ~~control center~~ 3178
program shall do each of the following: 3179

(A) Assist state agencies in establishing internal forms 3180
management capabilities; 3181

(B) Study, develop, coordinate, and initiate forms of 3182
interagency and common administrative usage, and establish basic 3183
design and specification criteria to standardize state forms; 3184

(C) Assist state agencies to design economical forms ~~and~~ 3185
~~compose art work for forms;~~ 3186

(D) ~~Establish and supervise control procedures to prevent the~~ 3187
~~undue creation and reproduction of state forms;~~ 3188

~~(E)~~ Assist, train, and instruct state agencies and their 3189

forms management representatives in forms management techniques, 3190
and provide direct forms management assistance to new state 3191
agencies as they are created; 3192

~~(F)~~(E) Maintain a central ~~cross index~~ forms repository of all 3193
state forms to facilitate standardization of the forms, eliminate 3194
redundant forms, and provide a central source of information on 3195
forms usage and availability; 3196

~~(G) Utilize existing functions within the department of 3197
administrative services to design economical forms and compose art 3198
work, as well as use appropriate procurement techniques to take 3199
advantage of competitive selection, consolidated orders, and 3200
contract procurement of forms; 3201~~

~~(H) Conduct an annual evaluation of the effectiveness of the 3202
forms management program and the forms management practices of 3203
individual state agencies, and maintain records that indicate 3204
dollar savings resulting from, and the number of forms eliminated, 3205
simplified, or standardized through, centralized forms management. 3206
The results of the evaluation shall be reported to the speaker of 3207
the house of representatives and president of the senate not later 3208
than the fifteenth day of January each year. The center shall 3209
report on the first day of each month to the state records 3210
administrator on its activities during the preceding month. 3211~~

Sec. 125.95. (A) The ~~administrator of the state forms 3212
management control center~~ program may permit any state agency to 3213
manage fully any forms used or proposed to be used by it, whenever 3214
the ~~administrator~~ program determines that the delegation will 3215
result in the most timely and economical method of accomplishing 3216
the objectives of the ~~forms management~~ program as set forth in 3217
section 125.93 of the Revised Code. A determination to delegate to 3218
a state agency authority to manage forms may, among other matters, 3219
take into consideration the benefits of central management of any 3220

form in relation to the costs associated with ~~such~~ that 3221
management. 3222

(B) To expedite the collection and disposition of general 3223
state and local revenue, the ~~administrator~~ state forms management 3224
program shall permit, without prior authorization, the tax 3225
commissioner to design, print or have printed, distribute, and 3226
require the use of those forms ~~which~~ that the tax commissioner 3227
determines are necessary for the proper administration of those 3228
taxes and programs ~~he~~ the tax commissioner administers except as 3229
provided in division (A) of section 4307.05 of the Revised Code. 3230
The tax commissioner shall report to the ~~administrator~~ program not 3231
later than fifteen days after the close of each calendar quarter 3232
with respect to the forms activities occurring within ~~his~~ the tax 3233
commissioner's agency during the preceding calendar quarter. 3234

Sec. 125.96. The director of administrative services may 3235
adopt, amend, or rescind rules necessary to carry out the powers 3236
and duties imposed upon the state forms management ~~control center~~ 3237
~~and its administrator~~ program and state agencies by sections 3238
125.92 to 125.98 of the Revised Code. The director shall adopt, 3239
and may amend or rescind, rules providing ~~that~~ each of the 3240
following: 3241

(A) After a date to be determined by the ~~administrator~~ state 3242
forms management program, no state agency shall utilize any form, 3243
other than a form subject to division (B) of section 125.95 of the 3244
Revised Code, the management of which has not been delegated to 3245
the agency by the ~~administrator~~ program under division (A) of that 3246
section ~~125.95 of the Revised Code~~ or ~~that has not~~ been approved 3247
by the ~~center~~ program. 3248

(B) The notice required by section 125.97 of the Revised Code 3249
shall appear in a standard place and a standard manner on each 3250
form to which the notice applies, and shall include specified 3251

indicia of approval by the ~~administrator~~ state forms management 3252
program. 3253

(C) Any form required by a state agency on an emergency basis 3254
may be given interim approval by the ~~administrator~~ state forms 3255
management program if the form is accompanied by a letter from the 3256
director or other head of the agency setting forth the nature of 3257
the emergency and requesting interim approval. 3258

Sec. 125.98. (A) Each state agency shall appoint a forms 3259
management representative, who may be from existing personnel. The 3260
appointee shall cooperate with, and provide other necessary 3261
assistance to, the director of administrative services and the 3262
~~administrator of the state forms management control center~~ program 3263
in implementing the ~~state forms management~~ program. A forms 3264
management representative shall do all of the following: 3265

(1) Manage the agency's forms management program and 3266
cooperate with and provide other necessary assistance to the 3267
director of administrative services in implementing the state 3268
forms management program; 3269

(2) Monitor the use and reproduction of all forms to ensure 3270
that all policies, procedures, guidelines, and standards 3271
established by the agency and the director of administrative 3272
services are followed; 3273

(3) Ensure that every form used by the agency is presented to 3274
the state forms management ~~control center~~ program for registration 3275
prior to its reproduction; 3276

(4) Maintain a master forms file history file, in numeric 3277
order, of all agency forms; 3278

(5) Verify and update the information on all forms ~~computer~~ 3279
~~file reports returned to the agency by the state forms management~~ 3280
~~control center~~ in the central forms repository database. 3281

(B) Any state agency, as ~~such term is~~ defined in section 1.60 3282
of the Revised Code, not included within the definition of a state 3283
agency in section 125.91 of the Revised Code may elect to 3284
participate in the state forms management program. The ~~center~~ 3285
program may provide to any such agency any service required or 3286
authorized by sections 125.92 to 125.98 of the Revised Code to be 3287
performed for a state agency. 3288

Sec. 126.11. (A)(1) The director of budget and management 3289
shall, upon consultation with the treasurer of state, coordinate 3290
and approve the scheduling of initial sales of publicly offered 3291
securities of the state and of publicly offered fractionalized 3292
interests in or securitized issues of public obligations of the 3293
state. The director shall from time to time develop and distribute 3294
to state issuers an approved sale schedule for each of the 3295
obligations covered by division (A) or (B) of this section. 3296
Division (A) of this section applies only to those obligations on 3297
which the state or a state agency is the direct obligor or obligor 3298
on any backup security or related credit enhancement facility or 3299
source of money subject to state appropriations that is intended 3300
for payment of those obligations. 3301

(2) The issuers of obligations pursuant to section 151.03, 3302
151.04, 151.05, 151.07, or 151.09 or Chapter 152. of the Revised 3303
Code shall submit to the director: 3304

(a) For review and approval: the projected sale date, amount, 3305
and type of obligations proposed to be sold; their purpose, 3306
security, and source of payment; and the proposed structure and 3307
maturity schedule; 3308

(b) For review and comment: the authorizing order or 3309
resolution; preliminary and final offering documents; method of 3310
sale; preliminary and final pricing information; and any written 3311
reports or recommendations of financial advisors or consultants 3312

relating to those obligations; 3313

(c) Promptly after each sale of those obligations: final 3314
terms, including sale price, maturity schedule and yields, and 3315
sources and uses; names of the original purchasers or 3316
underwriters; a copy of the final offering document and of the 3317
transcript of proceedings; and any other pertinent information 3318
requested by the director. 3319

(3) The issuer of obligations pursuant to section 151.06 , 3320
151.08, or 151.40 or Chapter 154. of the Revised Code shall submit 3321
to the director: 3322

(a) For review and mutual agreement: the projected sale date, 3323
amount, and type of obligations proposed to be sold; their 3324
purpose, security, and source of payment; and the proposed 3325
structure and maturity schedule; 3326

(b) For review and comment: the authorizing order or 3327
resolution; preliminary and final offering documents; method of 3328
sale; preliminary and final pricing information; and any written 3329
reports or recommendations of financial advisors or consultants 3330
relating to those obligations; 3331

(c) Promptly after each sale of those obligations: final 3332
terms, including sale price, maturity schedule and yields, and 3333
sources and uses; names of the original purchasers or 3334
underwriters; a copy of the final offering document and of the 3335
transcript of proceedings; and any other pertinent information 3336
requested by the director. 3337

(4) The issuers of obligations pursuant to Chapter 166., 3338
~~4981.~~ 5507., 5540., or 6121., or section 5531.10, of the Revised 3339
Code shall submit to the director: 3340

(a) For review and comment: the projected sale date, amount, 3341
and type of obligations proposed to be sold; the purpose, 3342
security, and source of payment; and preliminary and final 3343

offering documents; 3344

(b) Promptly after each sale of those obligations: final 3345
terms, including a maturity schedule; names of the original 3346
purchasers or underwriters; a copy of the complete continuing 3347
disclosure agreement pursuant to S.E.C. rule 15c2-12 or equivalent 3348
rule as from time to time in effect; and any other pertinent 3349
information requested by the director. 3350

(5) Not later than thirty days after the end of a fiscal 3351
year, each issuer of obligations subject to divisions (A) and (B) 3352
of this section shall submit to the director and to the treasurer 3353
of state a sale plan for the then current fiscal year for each 3354
type of obligation, projecting the amount and term of each 3355
issuance, the method of sale, and the month of sale. 3356

(B) Issuers of obligations pursuant to section 3318.085 or 3357
Chapter 175., 3366., 3706., 3737., 5537., 6121., or 6123. of the 3358
Revised Code shall submit to the director copies of the 3359
preliminary and final offering documents upon their availability 3360
if not previously submitted pursuant to division (A) of this 3361
section. 3362

(C) Not later than the first day of January of each year, 3363
every state agency obligated to make payments on outstanding 3364
public obligations with respect to which fractionalized interests 3365
have been publicly issued, such as certificates of participation, 3366
shall submit a report to the director of the amounts payable from 3367
state appropriations under those public obligations during the 3368
then current and next two fiscal years, identifying the 3369
appropriation or intended appropriation from which payment is 3370
expected to be made. 3371

(D)(1) Information relating generally to the historic, 3372
current, or future demographics or economy or financial condition 3373
or funds or general operations of the state, and descriptions of 3374

any state contractual obligations relating to public obligations, 3375
to be contained in any offering document, continuing disclosure 3376
document, or written presentation prepared, approved, or provided, 3377
or committed to be provided, by an issuer in connection with the 3378
original issuance and sale of, or rating, remarketing, or credit 3379
enhancement facilities relating to, public obligations referred to 3380
in division (A) of this section shall be approved as to format and 3381
accuracy by the director before being presented, published, or 3382
disseminated in preliminary, draft, or final form, or publicly 3383
filed in paper, electronic, or other format. 3384

(2) Except for information described in division (D)(1) of 3385
this section that is to be contained in an offering document, 3386
continuing disclosure document, or written presentation, division 3387
(D)(1) of this section does not inhibit direct communication 3388
between an issuer and a rating agency, remarketing agent, or 3389
credit enhancement provider concerning an issuance of public 3390
obligations referred to in division (A) of this section or matters 3391
associated with that issuance. 3392

(3) The materials approved and provided pursuant to division 3393
(D) of this section are the information relating to the particular 3394
subjects provided by the state or state agencies that are required 3395
or contemplated by any applicable state or federal securities laws 3396
and any commitments by the state or state agencies made under 3397
those laws. Reliance for the purpose should not be placed on any 3398
other information publicly provided, in any format including 3399
electronic, by any state agency for other purposes, including 3400
general information provided to the public or to portions of the 3401
public. A statement to that effect shall be included in those 3402
materials so approved or provided. 3403

(E) Issuers of obligations referred to in division (A) of 3404
this section may take steps, by formal agreement, covenants in the 3405
proceedings, or otherwise, as may be necessary or appropriate to 3406

comply or permit compliance with applicable lawful disclosure 3407
requirements relating to those obligations, and may, subject to 3408
division (D) of this section, provide, make available, or file 3409
copies of any required disclosure materials as necessary or 3410
appropriate. Any such formal agreement or covenant relating to 3411
subjects referred to in division (D) of this section, and any 3412
description of that agreement or covenant to be contained in any 3413
offering document, shall be approved by the director before being 3414
entered into or published or publicly disseminated in preliminary, 3415
draft, or final form or publicly filed in paper, electronic, or 3416
other format. The director shall be responsible for making all 3417
filings in compliance with those requirements relating to direct 3418
obligations of the state, including fractionalized interests in 3419
those obligations. 3420

(F) No state agency or official shall, without the approval 3421
of the director of budget and management, do either of the 3422
following: 3423

(1) Enter into or commit to enter into a public obligation 3424
under which fractionalized interests in the payments are to be 3425
publicly offered, which payments are anticipated to be made from 3426
money from any source appropriated or to be appropriated by the 3427
general assembly or in which the provision stated in section 9.94 3428
of the Revised Code is not included; 3429

(2) Except as otherwise expressly authorized for the purpose 3430
by law, agree or commit to provide, from money from any source to 3431
be appropriated in the future by the general assembly, financial 3432
assistance to or participation in the costs of capital facilities, 3433
or the payment of debt charges, directly or by way of a credit 3434
enhancement facility, a reserve, rental payments, or otherwise, on 3435
obligations issued to pay costs of capital facilities. 3436

(G) As used in this section, "credit enhancement facilities," 3437
"debt charges," "fractionalized interests in public obligations," 3438

"obligor," "public issuer," and "securities" have the same 3439
meanings as in section 133.01 of the Revised Code; "public 3440
obligation" has the same meaning as in division (GG)(2) of section 3441
133.01 of the Revised Code; "obligations" means securities or 3442
public obligations or fractionalized interests in them; "issuers" 3443
means issuers of securities or state obligors on public 3444
obligations; "offering document" means an official statement, 3445
offering circular, private placement memorandum, or prospectus, or 3446
similar document; and "director" means the director of budget and 3447
management or the employee of the office of budget and management 3448
designated by the director for the purpose. 3449

Sec. 127.16. (A) Upon the request of either a state agency or 3450
the director of budget and management and after the controlling 3451
board determines that an emergency or a sufficient economic reason 3452
exists, the controlling board may approve the making of a purchase 3453
without competitive selection as provided in division (B) of this 3454
section. 3455

(B) Except as otherwise provided in this section, no state 3456
agency, using money that has been appropriated to it directly, 3457
shall: 3458

(1) Make any purchase from a particular supplier, that would 3459
amount to fifty thousand dollars or more when combined with both 3460
the amount of all disbursements to the supplier during the fiscal 3461
year for purchases made by the agency and the amount of all 3462
outstanding encumbrances for purchases made by the agency from the 3463
supplier, unless the purchase is made by competitive selection or 3464
with the approval of the controlling board; 3465

(2) Lease real estate from a particular supplier, if the 3466
lease would amount to seventy-five thousand dollars or more when 3467
combined with both the amount of all disbursements to the supplier 3468
during the fiscal year for real estate leases made by the agency 3469

and the amount of all outstanding encumbrances for real estate 3470
leases made by the agency from the supplier, unless the lease is 3471
made by competitive selection or with the approval of the 3472
controlling board. 3473

(C) Any person who authorizes a purchase in violation of 3474
division (B) of this section shall be liable to the state for any 3475
state funds spent on the purchase, and the attorney general shall 3476
collect the amount from the person. 3477

(D) Nothing in division (B) of this section shall be 3478
construed as: 3479

(1) A limitation upon the authority of the director of 3480
transportation as granted in sections 5501.17, 5517.02, and 3481
5525.14 of the Revised Code; 3482

(2) Applying to medicaid provider agreements under Chapter 3483
5111. of the Revised Code or payments or provider agreements under 3484
the disability ~~assistance~~ medical assistance program established 3485
under Chapter 5115. of the Revised Code; 3486

(3) Applying to the purchase of examinations from a sole 3487
supplier by a state licensing board under Title XLVII of the 3488
Revised Code; 3489

(4) Applying to entertainment contracts for the Ohio state 3490
fair entered into by the Ohio expositions commission, provided 3491
that the controlling board has given its approval to the 3492
commission to enter into such contracts and has approved a total 3493
budget amount for such contracts as agreed upon by commission 3494
action, and that the commission causes to be kept itemized records 3495
of the amounts of money spent under each contract and annually 3496
files those records with the clerk of the house of representatives 3497
and the clerk of the senate following the close of the fair; 3498

(5) Limiting the authority of the chief of the division of 3499
mineral resources management to contract for reclamation work with 3500

an operator mining adjacent land as provided in section 1513.27 of 3501
the Revised Code; 3502

(6) Applying to investment transactions and procedures of any 3503
state agency, except that the agency shall file with the board the 3504
name of any person with whom the agency contracts to make, broker, 3505
service, or otherwise manage its investments, as well as the 3506
commission, rate, or schedule of charges of such person with 3507
respect to any investment transactions to be undertaken on behalf 3508
of the agency. The filing shall be in a form and at such times as 3509
the board considers appropriate. 3510

(7) Applying to purchases made with money for the per cent 3511
for arts program established by section 3379.10 of the Revised 3512
Code; 3513

(8) Applying to purchases made by the rehabilitation services 3514
commission of services, or supplies, that are provided to persons 3515
with disabilities, or to purchases made by the commission in 3516
connection with the eligibility determinations it makes for 3517
applicants of programs administered by the social security 3518
administration; 3519

(9) Applying to payments by the department of job and family 3520
services under section 5111.13 of the Revised Code for group 3521
health plan premiums, deductibles, coinsurance, and other 3522
cost-sharing expenses; 3523

(10) Applying to any agency of the legislative branch of the 3524
state government; 3525

(11) Applying to agreements or contracts entered into under 3526
section 5101.11, 5101.21, ~~or~~ 5101.211, 5101.212, or 5101.214 of 3527
the Revised Code; 3528

(12) Applying to purchases of services by the adult parole 3529
authority under section 2967.14 of the Revised Code or by the 3530
department of youth services under section 5139.08 of the Revised 3531

Code;	3532
(13) Applying to dues or fees paid for membership in an organization or association;	3533 3534
(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;	3535 3536
(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;	3537 3538 3539 3540
(16) Applying to purchases of tickets for passenger air transportation;	3541 3542
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	3543 3544 3545
(18) Applying to the judicial branch of state government;	3546
(19) Applying to purchases of liquor for resale by the division of liquor control;	3547 3548
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	3549 3550 3551
(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;	3552 3553 3554 3555
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	3556 3557 3558
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	3559 3560

(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;	3561 3562 3563 3564
(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code;	3565 3566
(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;	3567 3568 3569 3570 3571
(27) Applying to contracts entered into by the department of mental retardation and developmental disabilities under sections 5123.18, 5123.182, and 5111.252 <u>5123.199</u> of the Revised Code;	3572 3573 3574
(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section 5119.101 of the Revised Code;	3575 3576 3577
(29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division (F) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.	3578 3579 3580 3581 3582 3583
(30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract between the vendor and an inter-university purchasing group comprised of purchasing officers of state institutions of higher education;	3584 3585 3586 3587 3588
(31) Applying to the department of job and family services' purchases of health assistance services under the children's	3589 3590

health insurance program part I provided for under section 5101.50 3591
of the Revised Code or the children's health insurance program 3592
part II provided for under section 5101.51 of the Revised Code; 3593

(32) Applying to payments by the attorney general from the 3594
reparations fund to hospitals and other emergency medical 3595
facilities for performing medical examinations to collect physical 3596
evidence pursuant to section 2907.28 of the Revised Code; 3597

(33) Applying to contracts with a contracting authority or 3598
administrative receiver under division (G)(2) of section 5126.055 3599
of the Revised Code. 3600

(E) Notwithstanding division (B)(1) of this section, the 3601
cumulative purchase threshold shall be seventy-five thousand 3602
dollars for the departments of mental retardation and 3603
developmental disabilities, mental health, rehabilitation and 3604
correction, and youth services. 3605

(F) When determining whether a state agency has reached the 3606
cumulative purchase thresholds established in divisions (B)(1), 3607
(B)(2), and (E) of this section, all of the following purchases by 3608
such agency shall not be considered: 3609

(1) Purchases made through competitive selection or with 3610
controlling board approval; 3611

(2) Purchases listed in division (D) of this section; 3612

(3) For the purposes of the thresholds of divisions (B)(1) 3613
and (E) of this section only, leases of real estate. 3614

(G) As used in this section, "competitive selection," 3615
"purchase," "supplies," and "services" have the same meanings as 3616
in section 125.01 of the Revised Code. 3617

Sec. 131.23. The various political subdivisions of this state 3618
may issue bonds, and any indebtedness created by such issuance 3619
shall not be subject to the limitations or included in the 3620

calculation of indebtedness prescribed by sections 133.05, 133.06, 3621
133.07, and 133.09 of the Revised Code, but such bonds may be 3622
issued only under the following conditions: 3623

(A) The subdivision desiring to issue such bonds shall obtain 3624
from the county auditor a certificate showing the total amount of 3625
delinquent taxes due and unpayable to such subdivision at the last 3626
semiannual tax settlement. 3627

(B) The fiscal officer of that subdivision shall prepare a 3628
statement, from the books of the subdivision, verified by ~~him~~ the 3629
fiscal officer under oath, which shall contain the following facts 3630
of such subdivision: 3631

(1) The total bonded indebtedness; 3632

(2) The aggregate amount of notes payable or outstanding 3633
accounts of the subdivision, incurred prior to the commencement of 3634
the current fiscal year, which shall include all evidences of 3635
indebtedness issued by the subdivision except notes issued in 3636
anticipation of bond issues and the indebtedness of any 3637
nontax-supported public utility; 3638

(3) Except in the case of school districts, the aggregate 3639
current year's requirement for disability financial assistance and 3640
disability medical assistance provided under Chapter 5115. of the 3641
Revised Code that the subdivision is unable to finance except by 3642
the issue of bonds; 3643

(4) The indebtedness outstanding through the issuance of any 3644
bonds or notes pledged or obligated to be paid by any delinquent 3645
taxes; 3646

(5) The total of any other indebtedness; 3647

(6) The net amount of delinquent taxes unpledged to pay any 3648
bonds, notes, or certificates, including delinquent assessments on 3649
improvements on which the bonds have been paid; 3650

(7) The budget requirements for the fiscal year for bond and note retirement; 3651
3652

(8) The estimated revenue for the fiscal year. 3653

(C) The certificate and statement provided for in divisions (A) and (B) of this section shall be forwarded to the tax commissioner together with a request for authority to issue bonds of such subdivision in an amount not to exceed seventy per cent of the net unobligated delinquent taxes and assessments due and owing to such subdivision, as set forth in division (B)(6) of this section. 3654
3655
3656
3657
3658
3659
3660

(D) No subdivision may issue bonds under this section in excess of a sufficient amount to pay the indebtedness of the subdivision as shown by division (B)(2) of this section and, except in the case of school districts, to provide funds for disability financial assistance and disability medical assistance, as shown by division (B)(3) of this section. 3661
3662
3663
3664
3665
3666

(E) The tax commissioner shall grant to such subdivision authority requested by such subdivision as restricted by divisions (C) and (D) of this section and shall make a record of the certificate, statement, and grant in a record book devoted solely to such recording and which shall be open to inspection by the public. 3667
3668
3669
3670
3671
3672

(F) The commissioner shall immediately upon issuing the authority provided in division (E) of this section notify the proper authority having charge of the retirement of bonds of such subdivision by forwarding a copy of such grant of authority and of the statement provided for in division (B) of this section. 3673
3674
3675
3676
3677

(G) Upon receipt of authority, the subdivision shall proceed according to law to issue the amount of bonds authorized by the commissioner, and authorized by the taxing authority, provided the taxing authority of that subdivision may by resolution submit to 3678
3679
3680
3681

the electors of that subdivision the question of issuing such 3682
bonds. Such resolution shall make the declarations and statements 3683
required by section 133.18 of the Revised Code. The county auditor 3684
and taxing authority shall thereupon proceed as set forth in 3685
divisions (C) and (D) of such section. The election on the 3686
question of issuing such bonds shall be held under divisions (E), 3687
(F), and (G) of such section, except that publication of the 3688
notice of such election shall be made on four separate days prior 3689
to such election in one or more newspapers of general circulation 3690
in the subdivisions. Such bonds may be exchanged at their face 3691
value with creditors of the subdivision in liquidating the 3692
indebtedness described and enumerated in division (B)(2) of this 3693
section or may be sold as provided in Chapter 133. of the Revised 3694
Code, and in either event shall be uncontestable. 3695

(H) The per cent of delinquent taxes and assessments 3696
collected for and to the credit of the subdivision after the 3697
exchange or sale of bonds as certified by the commissioner shall 3698
be paid to the authority having charge of the sinking fund of the 3699
subdivision, which money shall be placed in a separate fund for 3700
the purpose of retiring the bonds so issued. The proper authority 3701
of the subdivisions shall provide for the levying of a tax 3702
sufficient in amount to pay the debt charges on all such bonds 3703
issued under this section. 3704

(I) This section is for the sole purpose of assisting the 3705
various subdivisions in paying their unsecured indebtedness, and 3706
providing funds for disability financial assistance and disability 3707
medical assistance. The bonds issued under authority of this 3708
section shall not be used for any other purpose and any exchange 3709
for other purposes, or the use of the money derived from the sale 3710
of such bonds by the subdivision for any other purpose, is 3711
misapplication of funds. 3712

(J) The bonds authorized by this section shall be redeemable 3713

or payable in not to exceed ten years from date of issue and shall 3714
not be subject to or considered in calculating the net 3715
indebtedness of the subdivision. The budget commission of the 3716
county in which the subdivision is located shall annually allocate 3717
such portion of the then delinquent levy due such subdivision 3718
which is unpledged for other purposes to the payment of debt 3719
charges on the bonds issued under authority of this section. 3720

(K) The issue of bonds under this section shall be governed 3721
by Chapter 133. of the Revised Code, respecting the terms used, 3722
forms, manner of sale, and redemption except as otherwise provided 3723
in this section. 3724

The board of county commissioners of any county may issue 3725
bonds authorized by this section and distribute the proceeds of 3726
such bond issues to any or all of the cities and townships of such 3727
counties, according to their relative needs for disability 3728
financial assistance and disability medical assistance as 3729
determined by such county. 3730

All sections of the Revised Code inconsistent with or 3731
prohibiting the exercise of the authority conferred by this 3732
section are inoperative respecting bonds issued under this 3733
section. 3734

Sec. 131.35. (A) With respect to the federal funds received 3735
into any fund of the state from which transfers may be made under 3736
division (D) of section 127.14 of the Revised Code: 3737

(1) No state agency may make expenditures of any federal 3738
funds, whether such funds are advanced prior to expenditure or as 3739
reimbursement, unless such expenditures are made pursuant to 3740
specific appropriations of the general assembly ~~identifying the~~ 3741
~~federal program that is the source of funds, are authorized~~ 3742
~~pursuant to section 131.38 of the Revised Code, are authorized by~~ 3743
the controlling board pursuant to division (A)(5) of this section, 3744

or are authorized by an executive order issued in accordance with 3745
section 107.17 of the Revised Code, and until an allotment has 3746
been approved by the director of budget and management. All 3747
federal funds received by a state agency shall be reported to the 3748
director within fifteen days of the receipt of such funds or the 3749
notification of award, whichever occurs first. The director shall 3750
prescribe the forms and procedures to be used when reporting the 3751
receipt of federal funds. 3752

(2) If the federal funds received are greater than the amount 3753
of such funds appropriated by the general assembly for a specific 3754
purpose, the total appropriation of federal and state funds for 3755
such purpose shall remain at the amount designated by the general 3756
assembly, except that the expenditure of federal funds received in 3757
excess of such specific appropriation may be authorized by the 3758
controlling board. 3759

(3) To the extent that the expenditure of excess federal 3760
funds is authorized, the controlling board may transfer a like 3761
amount of general revenue fund appropriation authority from the 3762
affected agency to the emergency purposes appropriation of the 3763
controlling board, if such action is permitted under federal 3764
regulations. 3765

(4) Additional funds may be created by the controlling board 3766
to receive revenues not anticipated in an appropriations act for 3767
the biennium in which such new revenues are received. Expenditures 3768
from such additional funds may be authorized by the controlling 3769
board, but such authorization shall not extend beyond the end of 3770
the biennium in which such funds are created. 3771

(5) Controlling board authorization for a state agency to 3772
make an expenditure of federal funds constitutes authority for the 3773
agency to participate in the federal program providing the funds, 3774
and the agency is not required to obtain an executive order under 3775
section 107.17 of the Revised Code to participate in the federal 3776

program. 3777

(B) With respect to nonfederal funds received into the 3778
waterways safety fund, the wildlife fund, and any fund of the 3779
state from which transfers may be made under division (D) of 3780
section 127.14 of the Revised Code: 3781

(1) No state agency may make expenditures of any such funds 3782
unless the expenditures are made pursuant to specific 3783
appropriations of the general assembly. 3784

(2) If the receipts received into any fund are greater than 3785
the amount appropriated, the appropriation for that fund shall 3786
remain at the amount designated by the general assembly or as 3787
increased and approved by the controlling board. 3788

(3) Additional funds may be created by the controlling board 3789
to receive revenues not anticipated in an appropriations act for 3790
the biennium in which such new revenues are received. Expenditures 3791
from such additional funds may be authorized by the controlling 3792
board, but such authorization shall not extend beyond the end of 3793
the biennium in which such funds are created. 3794

(C) The controlling board shall not authorize more than ten 3795
per cent of additional spending from the occupational licensing 3796
and regulatory fund, created in section 4743.05 of the Revised 3797
Code, in excess of any appropriation made by the general assembly 3798
to a licensing agency except an appropriation for costs related to 3799
the examination or reexamination of applicants for a license. As 3800
used in this division, "licensing agency" and "license" have the 3801
same meanings as in section 4745.01 of the Revised Code. 3802

Sec. 147.01. (A) The secretary of state may appoint and 3803
commission as notaries public as many persons who meet the 3804
qualifications of division (B) of this section as the secretary of 3805
state considers necessary. 3806

(B) In order for a person to qualify to be appointed and commissioned as a notary public, the person must satisfy both of the following:

(1) The person has attained the age of eighteen years.

(2) One of the following applies:

(a) The person is a ~~citizen~~ legal resident of this state who is not an attorney admitted to the practice of law in this state by the Ohio supreme court.

(b) The person is a ~~citizen~~ legal resident of this state who is an attorney admitted to the practice of law in this state by the Ohio supreme court.

(c) The person is not a ~~citizen~~ legal resident of this state, is an attorney admitted to the practice of law in this state by the Ohio supreme court, and has the person's principal place of business or the person's primary practice in this state.

(C) A notary public shall be appointed and commissioned as a notary public for the state. The secretary of state may revoke a commission issued to a notary public upon presentation of satisfactory evidence of official misconduct or incapacity.

Sec. 147.37. Each person receiving a commission as notary public, ~~except~~ including an attorney admitted to the practice of law in this state by the Ohio supreme court, shall pay a fee of ~~five~~ fifteen dollars to the secretary of state. ~~Each person receiving a commission as a notary public who is an attorney admitted to the practice of law in this state by the Ohio supreme court shall pay a fee of ten dollars to the secretary of state.~~

Sec. 149.011. As used in this chapter:

(A) "Public office" includes any state agency, public institution, political subdivision, or ~~any~~ other organized body,

office, agency, institution, or entity established by the laws of 3836
this state for the exercise of any function of government. 3837

(B) "State agency" includes every department, bureau, board, 3838
commission, office, or other organized body established by the 3839
constitution and laws of this state for the exercise of any 3840
function of state government, including any state-supported 3841
institution of higher education, the general assembly, ~~or~~ any 3842
legislative agency, any court or judicial agency, or any political 3843
subdivision or agency ~~thereof~~ of a political subdivision. 3844

(C) "Public money" includes all money received or collected 3845
by or due a public official, whether in accordance with or under 3846
authority of any law, ordinance, resolution, or order, under color 3847
of office, or otherwise. It also includes any money collected by 3848
any individual on behalf of a public office or as a purported 3849
representative or agent of the public office. 3850

(D) "Public official" includes all officers, employees, or 3851
duly authorized representatives or agents of a public office. 3852

(E) "Color of office" includes any act purported or alleged 3853
to be done under any law, ordinance, resolution, order, or other 3854
pretension to official right, power, or authority. 3855

(F) "Archive" includes any public record that is transferred 3856
to the state archives or other designated archival institutions 3857
because of the historical information contained on it. 3858

(G) "Records" includes any document, device, or item, 3859
regardless of physical form or characteristic, including an 3860
electronic record as defined in section 1306.01 of the Revised 3861
Code, created or received by or coming under the jurisdiction of 3862
any public office of the state or its political subdivisions, 3863
which serves to document the organization, functions, policies, 3864
decisions, procedures, operations, or other activities of the 3865
office. 3866

Sec. 149.33. (A) The department of administrative services 3867
shall have full responsibility for establishing and administering 3868
a state records program for all state agencies, except for 3869
state-supported institutions of higher education. The department 3870
shall apply efficient and economical management methods to the 3871
creation, utilization, maintenance, retention, preservation, and 3872
disposition of state records. 3873

There is hereby established within the department of 3874
administrative services ~~an office of a~~ state records 3875
~~administration program~~, which shall be under the control and 3876
supervision of the director of administrative services or ~~his~~ the 3877
director's appointed deputy. ~~The director shall designate an~~ 3878
~~administrator of the office of state records administration.~~ 3879

(B) The boards of trustees of state-supported institutions of 3880
higher education shall have full responsibility for establishing 3881
and administering a records program for their respective 3882
institutions. The boards shall apply efficient and economical 3883
management methods to the creation, utilization, maintenance, 3884
retention, preservation, and disposition of the records of their 3885
respective institutions. 3886

Sec. 149.331. The state ~~record administration~~ records program 3887
of the department of administrative services shall do all of the 3888
following: 3889

(A) Establish and promulgate in consultation with the state 3890
archivist standards, procedures, and techniques for the effective 3891
management of state records; 3892

(B) ~~Make continuing surveys of record-keeping operations and~~ 3893
~~recommend improvements in current records management practices~~ 3894
~~including the use of space, equipment, and supplies employed in~~ 3895
~~creating, maintaining, storing, and servicing records;~~ 3896

~~(C) Establish and operate such state records centers and auxiliary facilities as may be authorized by appropriation and provide such related services as are deemed necessary for the preservation, screening, storage, and servicing of state records pending disposition;~~ 3897
3898
3899
3900
3901

~~(D)~~ Review applications for one-time records disposal and schedules of records retention and destruction submitted by state agencies in accordance with section 149.333 of the Revised Code; 3902
3903
3904

~~(E)~~(C) Establish "general schedules" proposing the disposal, after the lapse of specified periods of time, of records of specified form or character common to several or all agencies that either have accumulated or may accumulate in such agencies and that apparently will not, after the lapse of the periods specified, have sufficient administrative, legal, fiscal, or other value to warrant their further preservation by the state; 3905
3906
3907
3908
3909
3910
3911

~~(F)~~(D) Establish and maintain a records management training program, and provide a basic consulting service, for personnel involved in record-making and record-keeping functions of departments, offices, and institutions; 3912
3913
3914
3915

~~(G) Obtain reports from departments, offices, and institutions necessary for the effective administration of the program;~~ 3916
3917
3918

~~(H)~~(E) Provide for the disposition of any remaining records of any state agency, board, or commission, whether in the executive, judicial, or legislative branch of government, that has terminated its operations. After the closing of the Ohio veterans' children's home, the resident records of the home and the resident records of the home when it was known as the soldiers' and sailors' orphans' home required to be maintained by approved records retention schedules shall be administered by the state department of education pursuant to this chapter, the 3919
3920
3921
3922
3923
3924
3925
3926
3927

administrative records of the home required to be maintained by 3928
approved records retention schedules shall be administered by the 3929
department of administrative services pursuant to this chapter, 3930
and historical records of the home shall be transferred to an 3931
appropriate archival institution in this state prescribed by the 3932
state ~~record administration~~ records program. 3933

~~(I)~~(F) Establish a centralized program coordinating 3934
micrographics standards, training, and services for the benefit of 3935
all state agencies; 3936

~~(J)~~(G) Establish and publish in accordance with the 3937
applicable law necessary procedures and rules for the retention 3938
and disposal of state records. 3939

This section does not apply to the records of state-supported 3940
institutions of higher education, which shall keep their own 3941
records. 3942

Sec. 149.332. Upon request the ~~state records administrator~~ 3943
director of administrative services and the state archivist shall 3944
assist and advise in the establishment of records management 3945
programs in the legislative and judicial branches of state 3946
government and shall, as required by them, provide program 3947
services similar to those available to the executive branch 3948
~~pursuant to~~ under section 149.33 of the Revised Code. Prior to the 3949
disposal of any records, the state archivist shall be allowed 3950
sixty days to select for preservation in the state archives those 3951
records ~~he~~ the state archivist determines to have continuing 3952
historical value. 3953

Sec. 149.333. No state agency shall retain, destroy, or 3954
otherwise transfer its state records in violation of this section. 3955
This section does not apply to state-supported institutions of 3956
higher education. 3957

Each state agency shall submit to the state records 3958
~~administrator~~ program under the director of administrative 3959
services all applications for records disposal or transfer and all 3960
schedules of records retention and destruction. The state records 3961
~~administrator~~ program shall review ~~such~~ the applications and 3962
schedules and provide written approval, rejection, or modification 3963
of ~~the~~ an application or schedule. The state records ~~administrator~~ 3964
program shall then forward the application for records disposal or 3965
transfer or the schedule for retention or destruction, with the 3966
~~administrator's~~ program's recommendation attached, to the auditor 3967
of state for review and approval. The decision of the auditor of 3968
state to approve, reject, or modify the ~~applications~~ application 3969
or ~~schedules~~ schedule shall be based upon the continuing 3970
administrative and fiscal value of the state records to the state 3971
or to its citizens. If the auditor of state disapproves the action 3972
by the state agency, ~~he~~ the auditor of state shall so inform the 3973
state agency through the state records ~~administrator~~ program 3974
within sixty days, ~~and these~~ the records shall not be destroyed. 3975
~~At~~ 3976

At the same time, the state records ~~administrator~~ program 3977
shall forward the application for records disposal or transfer or 3978
the schedule for retention or destruction to the state archivist 3979
for review and approval. The state archivist shall have sixty days 3980
to select for custody ~~such~~ the state records ~~as he~~ that the state 3981
archivist determines to be of continuing historical value. Records 3982
not ~~so~~ selected shall be disposed of in accordance with this 3983
section. 3984

Sec. 149.34. The head of each state agency, office, 3985
institution, board, or commission shall do the following: 3986

(A) Establish, maintain, and direct an active continuing 3987
program for the effective management of the records of the state 3988

agency; 3989

~~(B) Cooperate with the state records administrator in the 3990
conduct of surveys pursuant to section 149.331 of the Revised 3991
Code; 3992~~

~~(C)~~ Submit to the state records ~~administrator~~ program, in 3993
accordance with applicable standards and procedures, schedules 3994
proposing the length of time each record series warrants retention 3995
for administrative, legal, or fiscal purposes after it has been 3996
received or created by the agency. The head ~~of each state agency~~ 3997
also shall submit to the state records ~~administrator~~ program 3998
applications for disposal of records in ~~his~~ the head's custody 3999
that are not needed in the transaction of current business and are 4000
not otherwise scheduled for retention or destruction. 4001

~~(D) Transfer to a state records center or auxiliary 4002
facilities, in the manner prescribed by the state records 4003
administrator, those records of the agency that can be retained 4004
more efficiently and economically in such a center; 4005~~

~~(E)~~(C) Within one year after their date of creation or 4006
receipt, schedule all records for disposition or retention in the 4007
manner prescribed by applicable law and procedures. 4008

This section does not apply to state-supported institutions 4009
of higher education. 4010

Sec. 149.35. If any law prohibits the destruction of records, 4011
~~neither the state records administrator nor~~ director of 4012
administrative services, the director's designee, or the boards of 4013
trustees of state-supported institutions of higher education shall 4014
not order their destruction or other disposition, ~~and, if.~~ If any 4015
law provides that records shall be kept for a specified period of 4016
time, ~~neither the administrator nor~~ director of administrative 4017
services, the director's designee, or the boards shall not order 4018

their destruction or other disposition prior to the expiration of 4019
~~such~~ that period. 4020

Sec. 153.65. As used in sections 153.65 to 153.71 of the 4021
Revised Code: 4022

(A) "Public authority" means the state, ~~or~~ a county, 4023
township, municipal corporation, school district, or other 4024
political subdivision, or any public agency, authority, board, 4025
commission, instrumentality, or special district of the state or a 4026
county, township, municipal corporation, school district, or other 4027
political subdivision. 4028

(B) "Professional design firm" means any person legally 4029
engaged in rendering professional design services. 4030

(C) "Professional design services" means services within the 4031
scope of practice of an architect or landscape architect 4032
registered under Chapter 4703. of the Revised Code or a 4033
professional engineer or surveyor registered under Chapter 4733. 4034
of the Revised Code. 4035

(D) "Qualifications" means all of the following: 4036

(1) Competence of the professional design firm to perform the 4037
required professional design services as indicated by the 4038
technical training, education, and experience of the firm's 4039
personnel, especially the technical training, education, and 4040
experience of the employees within the firm who would be assigned 4041
to perform the services; 4042

(2) Ability of the firm in terms of its workload and the 4043
availability of qualified personnel, equipment, and facilities to 4044
perform the required professional design services competently and 4045
expeditiously; 4046

(3) Past performance of the firm as reflected by the 4047
evaluations of previous clients with respect to such factors as 4048

control of costs, quality of work, and meeting of deadlines; 4049

(4) ~~Other similar~~ Any other relevant factors as determined by 4050
the public authority. 4051

Sec. 163.06. (A) A public agency, other than an agency 4052
appropriating property for the purposes described in division (B) 4053
of this section, which qualifies pursuant to Section 19 of Article 4054
I, Ohio Constitution, may deposit with the court at the time of 4055
filing the petition the value of such property appropriated 4056
together with the damages, if any, to the residue, as determined 4057
by the public agency, and thereupon take possession of and enter 4058
upon the property appropriated. The right of possession upon 4059
deposit as provided in this division shall not extend to 4060
structures. 4061

(B) A public agency appropriating property for the purpose of 4062
making or repairing roads which shall be open to the public, 4063
without charge, ~~or for the purpose of implementing rail service~~ 4064
~~under Chapter 4981. of the Revised Code,~~ may deposit with the 4065
court at the time of filing the petition the value of such 4066
property appropriated together with the damages, if any, to the 4067
residue, as determined by the public agency, and stated in an 4068
attached declaration of intention to obtain possession and 4069
thereupon take possession of and enter upon the property 4070
appropriated, including structures situated upon the land 4071
appropriated for such purpose or situated partly upon the land 4072
appropriated therefor and partly upon adjoining land, so that such 4073
structures cannot be divided upon the line between such lands 4074
without manifest injury thereto. The jury, in assessing 4075
compensation to any owner of land appropriated under this division 4076
shall assess the value thereof in accordance with section 163.14 4077
of the Revised Code. The owner or occupant of such structures 4078
shall vacate the same within sixty days after service of summons 4079

as required under section 163.07 of the Revised Code, at no cost 4080
to the appropriating agency, after which time the agency may 4081
remove said structures. In the event such structures are to be 4082
removed before the jury has fixed the value of the same, the 4083
court, upon motion of the agency, shall: 4084

(1) Order appraisals to be made by three persons, one to be 4085
named by the owner, one by the county auditor, and one by the 4086
agency. Such appraisals may be used as evidence by the owner or 4087
the agency in the trial of said case but shall not be binding on 4088
said owner, agency, or the jury, and the expense of said 4089
appraisals shall be approved by the court and charged as costs in 4090
said case. 4091

(2) Cause pictures to be taken of all sides of said 4092
structures; 4093

(3) Compile a complete description of said structures, which 4094
shall be preserved as evidence in said case to which the owner or 4095
occupants shall have access. 4096

(C) Any time after the deposit is made by the public agency 4097
under division (A) or (B) of this section, the owner may apply to 4098
the court to withdraw the deposit, and such withdrawal shall in no 4099
way interfere with the action except that the sum so withdrawn 4100
shall be deducted from the sum of the final verdict or award. Upon 4101
such application being made the court shall direct that the sum be 4102
paid to such owner subject to the rights of other parties in 4103
interest provided such parties make timely application as provided 4104
in section 163.18 of the Revised Code. Interest shall not accrue 4105
on any sums withdrawable as provided in this division. 4106

Sec. 164.27. (A) The clean Ohio conservation fund is hereby 4107
created in the state treasury. Seventy-five per cent of the net 4108
proceeds of obligations issued and sold by the issuing authority 4109
pursuant to sections 151.01 and 151.09 of the Revised Code shall 4110

be deposited into the fund. Investment earnings of the fund shall 4111
be credited to the fund. ~~For two years after the effective date of~~ 4112
~~this section, investment earnings credited to the fund~~ and may be 4113
used to pay costs incurred by the Ohio public works commission in 4114
administering sections 164.20 to 164.27 of the Revised Code. 4115
Moneys in the clean Ohio conservation fund shall be used to make 4116
grants to local political subdivisions and nonprofit organizations 4117
for projects that have been approved for grants under sections 4118
164.20 to 164.27 of the Revised Code. 4119

The clean Ohio conservation fund shall be administered by the 4120
Ohio public works commission. 4121

(B) For the purpose of grants issued under sections 164.20 to 4122
164.27 of the Revised Code, moneys shall be allocated on an annual 4123
basis from the clean Ohio conservation fund to districts 4124
represented by natural resources assistance councils as follows: 4125

(1) Each district shall receive an amount that is equal to 4126
one-fourth of one per cent of the total annual amount allocated to 4127
all districts each year for each county that is represented by the 4128
district. 4129

(2) The remaining moneys shall be allocated to each district 4130
annually on a per capita basis. 4131

(C) A grant that is awarded under sections 164.20 to 164.27 4132
of the Revised Code may provide up to seventy-five per cent of the 4133
estimated cost of a project. Matching funds from a grant recipient 4134
may consist of contributions of money by any person, any local 4135
political subdivision, or the federal government or of 4136
contributions in-kind by such entities through the purchase or 4137
donation of equipment, land, easements, interest in land, labor, 4138
or materials necessary to complete the project. 4139

(D) The director of the Ohio public works commission shall 4140
notify the director of budget and management of the amounts 4141

allocated pursuant to this section, and that information shall be 4142
entered in the state accounting system. The director of budget and 4143
management may establish appropriate line items or other 4144
mechanisms that are needed to track the allocations. 4145

(E) Grants awarded under sections 164.20 to 164.27 of the 4146
Revised Code from the clean Ohio conservation fund shall be used 4147
by a local political subdivision or nonprofit organization only to 4148
pay the costs related to the purposes for which grants may be 4149
issued under section 164.22 of the Revised Code and shall not be 4150
used by a local political subdivision or nonprofit organization to 4151
pay any administrative costs incurred by the local political 4152
subdivision or nonprofit organization. 4153

Sec. 165.09. Any real or personal property, or both, of an 4154
issuer ~~which~~ that is acquired, constructed, reconstructed, 4155
enlarged, improved, furnished or equipped, or any combination 4156
thereof, and leased or subleased under authority of either Chapter 4157
165. or 761. of the Revised Code shall be subject to ad valorem, 4158
sales, use, and franchise taxes and to zoning, planning, and 4159
building regulations and fees, to the same extent and in the same 4160
manner as if the lessee-user or sublessee-user thereof, rather 4161
than the issuer, had acquired, constructed, reconstructed, 4162
enlarged, improved, furnished, or equipped, or any combination 4163
thereof, such real or personal property, and title thereto was in 4164
the name of such lessee-user or sublessee-user. 4165

The transfer of tangible personal property by lease or 4166
sublease under authority of either Chapter 165. or 761. of the 4167
Revised Code is not a sale as used in Chapter 5739. of the Revised 4168
Code. The exemptions provided in divisions (B)(1) and ~~(B)(14)~~(12) 4169
of section 5739.02 of the Revised Code shall not be applicable to 4170
purchases for a project under either Chapters 165. or 761. of the 4171
Revised Code. 4172

An issuer shall be exempt from all taxes on its real or personal property, or both, which has been acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, under Chapter 165. or 761. of the Revised Code, so long as such property is used by the issuer for purposes which would otherwise exempt such property; has ceased to be used by a former lessee-user or sublessee-user and is not occupied or used; or has been acquired by the issuer, but development has not yet commenced. The exemption shall be effective as of the date the exempt use begins. All taxes on the exempt real or personal property for the year should be prorated and the taxes for the exempt portion of the year shall be remitted by the county auditor.

Sec. 173.08. (A) The resident services coordinator program is established in the department of aging to fund resident services coordinators. The coordinators shall provide information to low-income and special-needs tenants, including the elderly, who live in subsidized rental housing complexes, and assist those tenants in identifying and obtaining community and program services and other benefits for which they are eligible.

(B) The resident services coordinator program fund is hereby created in the state treasury to support the resident services coordinator program established pursuant to this section. The fund consists of all moneys the department of development sets aside pursuant to division (A)(4) of section 175.21 of the Revised Code and moneys the general assembly appropriates to the fund.

Sec. 173.14. As used in sections 173.14 to 173.26 of the Revised Code:

(A)(1) Except as otherwise provided in division (A)(2) of this section, "long-term care facility" includes any residential

facility that provides personal care services for more than 4203
twenty-four hours for two or more unrelated adults, including all 4204
of the following: 4205

(a) A "nursing home," "residential care facility," or "home 4206
for the aging" as defined in section 3721.01 of the Revised Code; 4207

(b) A facility authorized to provide extended care services 4208
under Title XVIII of the "Social Security Act," 49 Stat. 620 4209
(1935), 42 U.S.C. 301, as amended; 4210

(c) A county home or district home operated pursuant to 4211
Chapter 5155. of the Revised Code; 4212

(d) An "adult care facility" as defined in section 3722.01 of 4213
the Revised Code; 4214

(e) A facility approved by the veterans administration under 4215
section 104(a) of the "Veterans Health Care Amendments of 1983," 4216
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 4217
the placement and care of veterans; 4218

(f) An adult foster home certified under section 173.36 of 4219
the Revised Code. 4220

(2) "Long-term care facility" does not include a "residential 4221
facility" as defined in section 5119.22 of the Revised Code or a 4222
"residential facility" as defined in section 5123.19 of the 4223
Revised Code. 4224

(B) "Resident" means a resident of a long-term care facility 4225
and, where appropriate, includes a prospective, previous, or 4226
deceased resident of a long-term care facility. 4227

(C) "Community-based long-term care services" means health 4228
and social services provided to persons ~~age sixty or older~~ in 4229
their own homes or in community care settings, and includes any of 4230
the following: 4231

(1) Case management; 4232

(2) Home health care;	4233
(3) Homemaker services;	4234
(4) Chore services;	4235
(5) Respite care;	4236
(6) Adult day care;	4237
(7) Home-delivered meals;	4238
(8) Personal care;	4239
(9) Physical, occupational, and speech therapy;	4240
(10) Any other health and social services provided to persons	4241
age sixty or older that allow them to retain their independence in	4242
their own homes or in community care settings.	4243
(D) "Recipient" means a recipient of community-based	4244
long-term care services and, where appropriate, includes a	4245
prospective, previous, or deceased recipient of community-based	4246
long-term care services.	4247
(E) "Sponsor" means an adult relative, friend, or guardian	4248
who has an interest in or responsibility for the welfare of a	4249
resident or a recipient.	4250
(F) "Personal care services" has the same meaning as in	4251
section 3721.01 of the Revised Code.	4252
(G) "Regional long-term care ombudsperson program" means an	4253
entity, either public or private and nonprofit, designated as a	4254
regional long-term care ombudsperson program by the state	4255
long-term care ombudsperson.	4256
(H) "Representative of the office of the state long-term care	4257
ombudsperson program" means the state long-term care ombudsperson	4258
or a member of the ombudsperson's staff, or a person certified as	4259
a representative of the office under section 173.21 of the Revised	4260
Code.	4261

(I) "Area agency on aging" means an area agency on aging 4262
established under the "Older Americans Act of 1965," 79 Stat. 219, 4263
42 U.S.C.A. 3001, as amended. 4264

Sec. 173.20. (A) If consent is given and unless otherwise 4265
prohibited by law, a representative of the office of the state 4266
long-term care ~~ombudsman~~ ombudsperson program shall have access to 4267
any records, including medical records, of a resident or a 4268
recipient that are reasonably necessary for investigation of a 4269
complaint. Consent may be given in any of the following ways: 4270

(1) In writing by the resident or recipient; 4271

(2) Orally by the resident or recipient, witnessed in writing 4272
at the time it is given by one other person, and, if the records 4273
involved are being maintained by a long-term care provider, also 4274
by an employee of the long-term care provider designated under 4275
division (E)(1) of this section; 4276

(3) In writing by the guardian of the resident or recipient; 4277

(4) In writing by the attorney in fact of the resident or 4278
recipient, if the resident or recipient has authorized the 4279
attorney in fact to give such consent; 4280

(5) In writing by the executor or administrator of the estate 4281
of a deceased resident or recipient. 4282

(B) If consent to access to records is not refused by a 4283
resident or recipient or ~~his~~ the resident's or recipient's legal 4284
representative but cannot be obtained and any of the following 4285
circumstances exist, a representative of the office of the state 4286
long-term care ~~ombudsman~~ ombudsperson program, on approval of the 4287
state long-term care ~~ombudsman~~ ombudsperson, may inspect the 4288
records of a resident or a recipient, including medical records, 4289
that are reasonably necessary for investigation of a complaint: 4290

(1) The resident or recipient is unable to express written or 4291

oral consent and there is no guardian or attorney in fact; 4292

(2) There is a guardian or attorney in fact, but ~~he~~ the 4293
guardian or attorney in fact cannot be contacted within three 4294
working days; 4295

(3) There is a guardianship or durable power of attorney, but 4296
its existence is unknown by the long-term care provider and the 4297
representative of the office at the time of the investigation; 4298

(4) There is no executor or administrator of the estate of a 4299
deceased resident or recipient. 4300

(C) If a representative of the office of the state long-term 4301
care ~~ombudsman~~ ombudsperson program has been refused access to 4302
records by a guardian or attorney in fact, but has reasonable 4303
cause to believe that the guardian or attorney in fact is not 4304
acting in the best interests of the resident or recipient, the 4305
representative may, on approval of the state long-term care 4306
~~ombudsman~~ ombudsperson, inspect the records of the resident or 4307
recipient, including medical records, that are reasonably 4308
necessary for investigation of a complaint. 4309

(D) A representative of the office of the state long-term 4310
care ~~ombudsman~~ ombudsperson program shall have access to any 4311
records of a long-term care provider reasonably necessary to an 4312
investigation conducted under this section, including but not 4313
limited to: incident reports, dietary records, policies and 4314
procedures of a facility required to be maintained under section 4315
5111.21 of the Revised Code, admission agreements, staffing 4316
schedules, any document depicting the actual staffing pattern of 4317
the provider, any financial records that are matters of public 4318
record, resident council and grievance committee minutes, and any 4319
waiting list maintained by a facility in accordance with section 4320
~~5111.31~~ 5111.222 of the Revised Code, or any similar records or 4321
lists maintained by a provider of community-based long-term care 4322

services. Pursuant to division (E)(2) of this section, a 4323
representative shall be permitted to make or obtain copies of any 4324
of these records after giving the long-term care provider 4325
twenty-four hours' notice. A long-term care provider may impose a 4326
charge for providing copies of records under this division that 4327
does not exceed the actual and necessary expense of making the 4328
copies. 4329

The state ~~ombudsman~~ ombudsperson shall take whatever action 4330
is necessary to ensure that any copy of a record made or obtained 4331
under this division is returned to the long-term care provider no 4332
later than three years after the date the investigation for which 4333
the copy was made or obtained is completed. 4334

(E)(1) Each long-term care provider shall designate one or 4335
more of its employees to be responsible for witnessing the giving 4336
of oral consent under division (A) of this section. In the event 4337
that a designated employee is not available when a resident or 4338
recipient attempts to give oral consent, the provider shall 4339
designate another employee to witness the consent. 4340

(2) Each long-term care provider shall designate one or more 4341
of its employees to be responsible for releasing records for 4342
copying to representatives of the office of the long-term care 4343
~~ombudsman~~ ombudsperson program who request permission to make or 4344
obtain copies of records specified in division (D) of this 4345
section. In the event that a designated employee is not available 4346
when a representative of the office makes the request, the 4347
long-term care provider shall designate another employee to 4348
release the records for copying. 4349

(F) A long-term care provider or any employee of such a 4350
provider is immune from civil or criminal liability or action 4351
taken pursuant to a professional disciplinary procedure for the 4352
release or disclosure of records to a representative of the office 4353
pursuant to this section. 4354

(G) A state or local government agency or entity with records 4355
relevant to a complaint or investigation being conducted by a 4356
representative of the office shall provide the representative 4357
access to the records. 4358

(H) The state ~~ombudsman~~ ombudsperson, with the approval of 4359
the director of aging, may issue a subpoena to compel any person 4360
~~he~~ the ombudsperson reasonably believes may be able to provide 4361
information to appear before ~~him~~ the ombudsperson or ~~his~~ the 4362
ombudsperson's designee and give sworn testimony and to produce 4363
documents, books, records, papers, or other evidence the state 4364
~~ombudsman~~ ombudsperson believes is relevant to the investigation. 4365
On the refusal of a witness to be sworn or to answer any question 4366
put to ~~him~~ the witness, or if a person disobeys a subpoena, the 4367
~~ombudsman~~ ombudsperson shall apply to the Franklin county court of 4368
common pleas for a contempt order, as in the case of disobedience 4369
of the requirements of a subpoena issued from the court, or a 4370
refusal to testify in the court. 4371

(I) The state ~~ombudsman~~ ombudsperson may petition the court 4372
of common pleas in the county in which a long-term care facility 4373
is located to issue an injunction against any long-term care 4374
facility in violation of sections 3721.10 to 3721.17 of the 4375
Revised Code. 4376

(J) Any suspected violation of Chapter 3721. of the Revised 4377
Code discovered during the course of an investigation may be 4378
reported to the department of health. Any suspected criminal 4379
violation discovered during the course of an investigation shall 4380
be reported to the attorney general or other appropriate law 4381
enforcement authorities. 4382

(K) The department of aging shall adopt rules in accordance 4383
with Chapter 119. of the Revised Code for referral by the state 4384
~~ombudsman~~ ombudsperson and regional long-term care ~~ombudsman~~ 4385

ombudsperson programs of complaints to other public agencies or 4386
entities. A public agency or entity to which a complaint is 4387
referred shall keep the state ~~ombudsman~~ ombudsperson or regional 4388
program handling the complaint advised and notified in writing in 4389
a timely manner of the disposition of the complaint to the extent 4390
permitted by law. 4391

Sec. 173.21. (A) The office of the state long-term care 4392
~~ombudsman~~ ombudsperson program, through the state long-term care 4393
~~ombudsman~~ ombudsperson and the regional long-term care ~~ombudsman~~ 4394
ombudsperson programs, shall require each representative of the 4395
office to complete a training and certification program in 4396
accordance with this section and to meet the continuing education 4397
requirements established under this section. 4398

(B) The department of aging shall adopt rules under Chapter 4399
119. of the Revised Code specifying the content of training 4400
programs for representatives of the office of the state long-term 4401
care ~~ombudsman~~ ombudsperson program. Training for representatives 4402
other than those who are volunteers providing services through 4403
regional long-term care ~~ombudsman~~ ombudsperson programs shall 4404
include instruction regarding federal, state, and local laws, 4405
rules, and policies on long-term care facilities and 4406
community-based long-term care services; investigative techniques; 4407
and other topics considered relevant by the department and shall 4408
consist of the following: 4409

(1) A minimum of forty clock hours of basic instruction, 4410
which shall be completed before the trainee is permitted to handle 4411
complaints without the supervision of a representative of the 4412
office certified under this section; 4413

(2) An additional sixty clock hours of instruction, which 4414
shall be completed within the first fifteen months of employment; 4415

(3) An internship of twenty clock hours, which shall be 4416

completed within the first twenty-four months of employment, 4417
including instruction in, and observation of, basic nursing care 4418
and long-term care provider operations and procedures. The 4419
internship shall be performed at a site that has been approved as 4420
an internship site by the state long-term care ~~ombudsman~~ 4421
ombudsperson. 4422

(4) One of the following, which shall be completed within the 4423
first twenty-four months of employment: 4424

(a) Observation of a survey conducted by the director of 4425
health to certify a facility to receive funds under ~~sections~~ 4426
~~5111.20 to 5111.32~~ the medicaid program established under Chapter 4427
5111. of the Revised Code; 4428

(b) Observation of an inspection conducted by the director of 4429
health to license an adult care facility under section 3722.04 of 4430
the Revised Code. 4431

(5) Any other training considered appropriate by the 4432
department. 4433

(C) Persons who for a period of at least six months prior to 4434
June 11, 1990, served as ombudsmen through the long-term care 4435
~~ombudsman~~ ombudsperson program established by the department of 4436
aging under division (M) of section 173.01 of the Revised Code 4437
shall not be required to complete a training program. These 4438
persons and persons who complete a training program shall take an 4439
examination administered by the department of aging. On attainment 4440
of a passing score, the person shall be certified by the 4441
department as a representative of the office. The department shall 4442
issue the person an identification card, which the representative 4443
shall show at the request of any person with whom ~~he~~ the 4444
representative deals while performing ~~his~~ the representative's 4445
duties and which ~~he~~ shall ~~surrender~~ be surrendered at the time ~~he~~ 4446
the representative separates from the office. 4447

(D) The state ~~ombudsman~~ ombudsperson and each regional 4448
program shall conduct training programs for volunteers on their 4449
respective staffs in accordance with the rules of the department 4450
of aging adopted under division (B) of this section. Training 4451
programs may be conducted that train volunteers to complete some, 4452
but not all, of the duties of a representative of the office. Each 4453
regional office shall bear the cost of training its 4454
representatives who are volunteers. On completion of a training 4455
program, the representative shall take an examination administered 4456
by the department of aging. On attainment of a passing score, ~~he a~~ 4457
volunteer shall be certified by the department as a representative 4458
authorized to perform services specified in the certification. The 4459
department shall issue an identification card, which the 4460
representative shall show at the request of any person with whom 4461
~~he the representative~~ deals while performing ~~his the~~ 4462
representative's duties and which ~~he shall surrender be~~ 4463
surrendered at the time ~~he the representative~~ separates from the 4464
office. Except as a supervised part of a training program, no 4465
volunteer shall perform any duty unless he is certified as a 4466
representative having received appropriate training for that duty. 4467

(E) The state ~~ombudsman~~ ombudsperson shall provide technical 4468
assistance to regional programs conducting training programs for 4469
volunteers and shall monitor the training programs. 4470

(F) Prior to scheduling an observation of a certification 4471
survey or licensing inspection for purposes of division (B)(4) of 4472
this section, the state ~~ombudsman~~ ombudsperson shall obtain 4473
permission to have the survey or inspection observed from both the 4474
director of health and the long-term care facility at which the 4475
survey or inspection is to take place. 4476

(G) The department of aging shall establish continuing 4477
education requirements for representatives of the office. 4478

Sec. 173.26. (A) Each of the following facilities shall 4479
annually pay to the department of aging ~~three~~ six dollars for each 4480
bed maintained by the facility for use by a resident during any 4481
part of the previous year: 4482

(1) Nursing homes, residential care facilities, and homes for 4483
the aging as defined in section 3721.01 of the Revised Code; 4484

(2) Facilities authorized to provide extended care services 4485
under Title XVIII of the "Social Security Act," 49 Stat. 620 4486
(1935), 42 U.S.C. 301, as amended; 4487

(3) County homes and district homes operated pursuant to 4488
Chapter 5155. of the Revised Code; 4489

(4) Adult care facilities as defined in section 3722.01 of 4490
the Revised Code; 4491

(5) ~~Adult foster homes certified under section 173.36 of the~~ 4492
~~Revised Code;~~ 4493

~~(6)~~ Facilities approved by the Veterans Administration under 4494
Section 104(a) of the "Veterans Health Care Amendments of 1983," 4495
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 4496
the placement and care of veterans. 4497

The department shall, by rule adopted under section 111.15 of 4498
the Revised Code, establish deadlines for payments required by 4499
this section. 4500

(B) All money collected under this section shall be deposited 4501
in the state treasury to the credit of the office of the state 4502
long-term care ~~ombudsman~~ ombudsperson program fund, which is 4503
hereby created. Money credited to the fund shall be used solely to 4504
pay the costs of operating the regional long-term care ~~ombudsman~~ 4505
ombudsperson programs. 4506

(C) The state long-term care ~~ombudsman~~ ombudsperson and the 4507

regional programs may solicit and receive contributions to support 4508
the operation of the office or a regional program, except that no 4509
contribution shall be solicited or accepted that would interfere 4510
with the independence or objectivity of the office or program. 4511

Sec. 173.55. The department of aging may charge a fee, not to 4512
exceed four hundred dollars, for each of the annual customer 4513
satisfaction surveys conducted under section 173.54 of the Revised 4514
Code. The fee shall be paid by the nursing facility and is subject 4515
to reimbursement through the medicaid program ~~pursuant to sections~~ 4516
~~5111.20 to 5111.32~~ established under Chapter 5111. of the Revised 4517
Code. 4518

All fees collected under this section shall be deposited to 4519
the credit of the long-term care consumer guide fund, which is 4520
hereby created in the state treasury. The fund shall be used for 4521
costs associated with publishing the Ohio long-term care consumer 4522
guide, including the cost of contracting with persons and 4523
government entities under section 173.47 of the Revised Code. The 4524
department may contract with a person or government entity to 4525
collect the fees on behalf of the department. 4526

Sec. 173.57. (A) The department of aging shall adopt rules to 4527
implement and administer sections 173.45 to 173.59 of the Revised 4528
Code. The rules shall specify all of the following: 4529

(1) The content of the Ohio long-term care consumer guide, 4530
including any information in addition to the information specified 4531
in section 173.51 of the Revised Code; 4532

(2) The content of the computerized and printed forms of the 4533
executive summary of the consumer guide; 4534

(3) The customer satisfaction measures to be published in the 4535
consumer guide pursuant to division (C)(1) of section 173.51 of 4536
the Revised Code; 4537

(4) The clinical quality indicators to be published in the consumer guide pursuant to division (C)(2) of section 173.51 of the Revised Code;

(5) For purposes of clinical quality, customer satisfaction, and survey data tag comparisons under section 173.51 of the Revised Code, criteria to be used in classifying nursing facilities into peer groups, which may be based on case-mix scores calculated pursuant to rules adopted under section ~~5111.231~~ 5111.02 of the Revised Code, the size of nursing facilities, the location of facilities, or other pertinent factors;

(6) The format for listing nursing facility services in the consumer guide and the manner in which that information is to be collected from nursing facilities;

(7) A method of including additional long-term care facilities and service providers in the consumer guide pursuant to considerations made under division (B)(4) of section 173.58 of the Revised Code;

(8) Any other requirements necessary to implement and administer sections 173.45 to 173.59 of the Revised Code.

(B) The department shall develop rules under this section in consultation with the long-term care consumer guide advisory council created under section 173.58 of the Revised Code. Before filing a rule under section 119.03 of the Revised Code, the department shall present it to the advisory council and provide the council a reasonable time to comment on it. The department shall give appropriate consideration to recommendations of the advisory council regarding proposed rules.

(C) All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. Initial rules shall be adopted not later than six months after ~~the effective date of this section~~ July 1, 2000.

Sec. 175.03. (A)(1) The Ohio housing finance agency shall 4569
consist of eleven members. Nine of the members shall be appointed 4570
by the governor with the advice and consent of the senate. The 4571
director of commerce and the director of development, or their 4572
respective designees, shall also be voting members of the agency. 4573
Of the nine appointed members, at least one shall have experience 4574
in residential housing construction; at least one shall have 4575
experience in residential housing mortgage lending, loan 4576
servicing, or brokering; at least one shall have experience in the 4577
licensed residential housing brokerage business; at least one 4578
shall have experience with the housing needs of senior citizens; 4579
at least one shall be from a background in labor representation in 4580
the construction industry; at least one shall represent the 4581
interests of nonprofit multifamily housing development 4582
corporations; at least one shall represent the interests of 4583
for-profit multifamily housing development organizations; and two 4584
shall be public members. The governor shall receive 4585
recommendations from the Ohio housing council for appointees to 4586
represent the interests of nonprofit multifamily housing 4587
development corporations and for-profit multifamily housing 4588
development organizations. Each appointee representing multifamily 4589
housing interests currently shall be employed with an organization 4590
that is active in the area of affordable housing development or 4591
management. No more than six of the appointed members of the 4592
agency shall be of the same political party. Of the appointments 4593
made to the agency for the eighth and ninth appointed members in 4594
accordance with this amendment, one shall be for a term ending on 4595
January 31, 2005, and one shall be for a term ending on January 4596
31, 2006. Thereafter, each appointed member shall serve for a term 4597
ending on the thirty-first day of January which is six years 4598
following the date of termination of the term which it succeeds. 4599
Each member shall hold office from the date of the member's 4600

appointment until the end of the term for which the member was 4601
appointed. Any member appointed to fill a vacancy occurring prior 4602
to the expiration of the term for which the member's predecessor 4603
was appointed shall hold office for the remainder of such term. 4604
Any appointed member shall continue in office subsequent to the 4605
expiration date of the member's term until the member's successor 4606
takes office, or until a period of sixty days has elapsed, 4607
whichever occurs first. Each appointed member may be removed from 4608
office by the governor for misfeasance, nonfeasance, malfeasance 4609
in office, or for failure to attend in person three consecutive 4610
meetings of the agency. 4611

(2) The ~~director of development or the director's designee~~ 4612
governor shall ~~be~~ appoint the chairperson of the agency. The 4613
agency shall elect one of its ~~appointed~~ members as 4614
vice-chairperson and such other officers as it deems necessary, 4615
who need not be members of the agency. Each appointed member of 4616
the agency shall receive compensation at the rate of one hundred 4617
fifty dollars per agency meeting attended in person, not to exceed 4618
a maximum of three thousand dollars per year. All members shall be 4619
reimbursed for their actual and necessary expenses incurred in the 4620
discharge of their official duties. 4621

(3) Six members of the agency constitute a quorum, and the 4622
affirmative vote of six members shall be necessary for any action 4623
taken by the agency. No vacancy in membership of the agency 4624
impairs the right of a quorum to exercise all the rights and 4625
perform all the duties of the agency. Meetings of the agency may 4626
be held at any place within the state. Meetings of the agency, 4627
including notice of the place of meetings, shall comply with 4628
section 121.22 of the Revised Code. 4629

(B)(1) The appointed members of the agency are not subject to 4630
section 102.02 of the Revised Code. Each such appointed member 4631
shall file with the agency a signed written statement setting 4632

forth the general nature of sales of goods, property or services 4633
or of loans to the agency in which such member has a pecuniary 4634
interest or in which any member of the member's immediate family, 4635
as defined in section 102.01 of the Revised Code, or any 4636
corporation, partnership or enterprise of which the member is an 4637
officer, director, or partner, or of which the member or a member 4638
of the member's immediate family, as so defined, owns more than a 4639
five per cent interest, has a pecuniary interest, and of which 4640
sale, loan and interest such member has knowledge. The statement 4641
shall be supplemented from time to time to reflect changes in the 4642
general nature of any such sales or loans. No member shall 4643
participate in portions of agency meetings dealing with, or vote 4644
concerning, any such matter. 4645

(2) The requirements of this section pertaining to disclosure 4646
and prohibition from participation and voting do not apply to 4647
agency loans to lending institutions or contracts between the 4648
agency and lending institutions for the purchase, administration, 4649
or servicing of loans notwithstanding that such lending 4650
institution has a director, officer, employee, or owner who is a 4651
member of the agency, and no such loans or contracts shall be 4652
deemed to be prohibited or otherwise regulated by reason of any 4653
other law or rule. 4654

(3) The members of the agency representing multifamily 4655
housing interests are not in violation of division (A) of section 4656
2921.42, division (D) of section 102.03, or division (E) of 4657
section 102.03 of the Revised Code in regard to a contract the 4658
agency enters into if both of the following apply: 4659

(a) The contract is entered into for a loan, grant, or 4660
participation in a program administered or funded by the agency 4661
and the contract was awarded pursuant to rules or guidelines the 4662
agency adopted. 4663

(b) The member does not participate in the discussion or vote 4664

on the contract if the contract secured a grant or loan that would 4665
directly benefit the member, a family member, or a business 4666
associate of the member. 4667

Sec. 175.21. (A) The low- and moderate-income housing trust 4668
fund is hereby created in the state treasury. The fund shall 4669
consist of all appropriations made to the fund, housing trust fund 4670
fees collected by county recorders pursuant to section 317.36 of 4671
the Revised Code and deposited into the fund pursuant to section 4672
319.63 of the Revised Code, and all grants, gifts, loan 4673
repayments, and contributions of money made from any source to the 4674
department of development for deposit in the fund. All investment 4675
earnings of the fund shall be credited to the fund. The director 4676
of development shall allocate a portion of the money in the fund 4677
to an account of the Ohio housing finance agency. The department 4678
shall administer the fund. The agency shall use money allocated to 4679
it in the fund for implementing and administering its programs and 4680
duties under sections 175.22 and 175.24 of the Revised Code, and 4681
the department shall use the remaining money in the fund for 4682
implementing and administering its programs and duties under 4683
sections 175.22 to 175.25 of the Revised Code. Use of all money in 4684
the fund is subject to the following restrictions: 4685

(1) Not more than six per cent of any current year 4686
appropriation authority for the fund shall be used for the 4687
transitional and permanent housing program to make grants to 4688
municipal corporations, counties, townships, and nonprofit 4689
organizations for the acquisition, rehabilitation, renovation, 4690
construction, conversion, operation, and cost of supportive 4691
services for new and existing transitional and permanent housing 4692
for homeless persons. 4693

(2)(a) Not more than five per cent of any current year 4694
appropriation authority for the fund shall be used for grants and 4695

loans to community development corporations and the Ohio community 4696
development finance fund, a private nonprofit corporation. 4697

(b) In any year in which the amount in the fund exceeds one 4698
hundred thousand dollars, not less than one hundred thousand 4699
dollars shall be used to provide training, technical assistance, 4700
and capacity building assistance to nonprofit development 4701
organizations in areas of the state the director designates as 4702
underserved. 4703

(c) For monies awarded in any fiscal year, priority shall be 4704
given to proposals submitted by nonprofit development 4705
organizations from areas of the state the director designates as 4706
underserved. 4707

(3) Not more than seven per cent of any current year 4708
appropriation authority for the fund shall be used for the 4709
emergency shelter housing grants program to make grants to 4710
private, nonprofit organizations and municipal corporations, 4711
counties, and townships for emergency shelter housing for the 4712
homeless. The grants shall be distributed pursuant to rules the 4713
director adopts and qualify as matching funds for funds obtained 4714
pursuant to the McKinney Act, 101 Stat. 85 (1987), 42 U.S.C.A. 4715
11371 to 11378. 4716

(4) In any fiscal year in which the amount in the fund 4717
exceeds the amount awarded pursuant to division (A)(2)(b) of this 4718
section by at least two hundred fifty thousand dollars, at least 4719
two hundred fifty thousand dollars from the fund shall be provided 4720
to the department of aging for the resident services coordinator 4721
program. 4722

(5) Of all money in the fund: 4723

(a) Not more than six per cent shall be used for 4724
administration. 4725

(b) Not less than forty-five per cent of the amount of funds 4726

awarded during any one fiscal year shall be ~~used to make for~~ 4727
grants and loans to nonprofit organizations under section 175.22 4728
of the Revised Code, ~~not.~~ 4729

(c) Not less than fifty per cent of the ~~amount of~~ funds 4730
awarded during any one fiscal year, excluding the amounts awarded 4731
pursuant to divisions (A)(1), (A)(2), and (A)(3) of this section, 4732
shall be ~~used to make for~~ grants and loans for activities that 4733
~~will~~ provide housing and housing assistance to families and 4734
individuals in rural areas and small cities that ~~would~~ are not be 4735
eligible to participate as a participating jurisdiction under the 4736
"HOME Investment Partnerships Act," 104 Stat. 4094 (1990), 42 4737
U.S.C. 12701 note, 12721, ~~no more than five per cent of the money~~ 4738
~~in the fund shall be used for administration, and no.~~ 4739

(d) No money in the fund shall be used to pay for any legal 4740
services other than the usual and customary legal services 4741
associated with the acquisition of housing. 4742

(6) Except as otherwise provided by the director under 4743
division (B) of this section, money in the fund may be used as 4744
matching money for federal funds received by the state, counties, 4745
municipal corporations, and townships for the activities listed in 4746
section 175.22 of the Revised Code. 4747

(B) If after the second quarter of any year it appears to the 4748
director that the full amount of the money in the ~~low and~~ 4749
~~moderate income housing trust~~ fund designated in that year for 4750
activities that ~~will~~ provide housing and housing assistance to 4751
families and individuals in rural areas and small cities under 4752
division (A) of this section will not be ~~so~~ used for that purpose, 4753
the director may reallocate all or a portion of that amount for 4754
other housing activities. In determining whether or how to 4755
reallocate money under this division, the director may consult 4756
with and shall receive advice from the housing trust fund advisory 4757
committee. 4758

Sec. 175.22. (A) The department of development and the Ohio 4759
housing finance agency shall each develop programs under which, in 4760
accordance with rules adopted under this section, ~~it~~ they may make 4761
grants, loans, loan guarantees, and loan subsidies to counties, 4762
municipal corporations, townships, local housing authorities, and 4763
nonprofit organizations and may make loans, loan guarantees, and 4764
loan subsidies to private developers and private lenders to assist 4765
~~them~~ in activities that ~~will~~ provide housing and housing 4766
assistance for specifically targeted low- and moderate-income 4767
families and individuals. There ~~shall be~~ is no minimum housing 4768
project size for awards under this division for any project that 4769
is ~~being~~ developed for a special needs population and that is 4770
supported by a social service agency where the housing project 4771
~~will be~~ is located. Activities for which grants, loans, loan 4772
guarantees, and loan subsidies may be made under this section 4773
include all of the following: 4774

(1) Acquiring, financing, constructing, leasing, 4775
rehabilitating, remodeling, improving, and equipping publicly or 4776
privately owned housing; 4777

(2) Providing supportive services related to housing and the 4778
homeless, including housing counseling. Not more than twenty per 4779
cent of the current year appropriation authority for the low- and 4780
moderate-income housing trust fund that remains after the 4781
expenditures made pursuant to divisions (A)(1), (A)(2), and (A)(3) 4782
of section 175.21 of the Revised Code, shall be awarded in any 4783
fiscal year for ~~such~~ supportive services. 4784

(3) Providing rental assistance payments or other project 4785
operating subsidies that lower tenant rents. 4786

(B) Grants, loans, loan guarantees, and loan subsidies may be 4787
made to counties, municipal corporations, townships, and nonprofit 4788
organizations for the additional purposes of providing technical 4789

assistance, design and finance services and consultation, and 4790
payment of pre-development and administrative costs related to any 4791
of the activities listed above. 4792

(C) In developing programs under this section, the department 4793
and the agency shall invite, accept, and consider public comment, 4794
and recommendations from the housing trust fund advisory committee 4795
created under section 175.25 of the Revised Code, on how the 4796
programs should be designed to most effectively benefit low- and 4797
moderate-income families and individuals. The programs developed 4798
under this section shall respond collectively to housing and 4799
housing assistance needs of low- and moderate-income families and 4800
individuals statewide. 4801

(D) The department and the agency, in accordance with Chapter 4802
119. of the Revised Code, shall each adopt rules ~~under which it~~ 4803
~~shall to~~ administer programs developed ~~by it~~ under this section. 4804
The rules shall prescribe procedures and forms ~~whereby that~~ 4805
counties, municipal corporations, townships, local housing 4806
authorities, and nonprofit organizations ~~may apply~~ shall use in 4807
applying for grants, loans, loan guarantees, and loan subsidies 4808
and ~~that~~ private developers and private lenders ~~may apply~~ shall 4809
use in applying for loans, loan guarantees, and loan subsidies; 4810
eligibility criteria for the receipt of funds; procedures for 4811
reviewing and granting or denying applications; procedures for 4812
paying out funds; conditions on the use of funds; procedures for 4813
monitoring the use of funds; and procedures under which a 4814
recipient shall be required to repay funds that are improperly 4815
used. The rules ~~adopted by the department~~ shall do both of the 4816
following: 4817

(1) Require each recipient of a grant or loan made from the 4818
low- and moderate-income housing trust fund for activities that 4819
~~will~~ provide, or assist in providing, a rental housing project, to 4820
reasonably ensure that the rental housing project will ~~be~~ remain 4821

affordable to those families and individuals targeted for the 4822
rental housing project for the useful life of the rental housing 4823
project or for thirty years, whichever is longer; 4824

(2) Require each recipient of a grant or loan made from the 4825
low- and moderate-income housing trust fund for activities that 4826
~~will~~ provide, or assist in providing, a housing project to prepare 4827
and implement a plan to reasonably assist any families and 4828
individuals displaced by the housing project in obtaining decent 4829
affordable housing. 4830

(E) In prescribing eligibility criteria and conditions for 4831
the use of funds, neither the department nor the agency is limited 4832
to the criteria and conditions specified in this section and each 4833
may prescribe additional eligibility criteria and conditions that 4834
relate to the purposes for which grants, loans, loan guarantees, 4835
and loan subsidies may be made. However, the department and agency 4836
are limited by the following specifically targeted low- and 4837
moderate-income guidelines: 4838

(1) Not less than seventy-five per cent of the money granted 4839
and loaned under this section in any fiscal year shall be for 4840
activities that ~~will~~ provide affordable housing and housing 4841
assistance to families and individuals ~~in a county~~ whose incomes 4842
are equal to or less than fifty per cent of the median income for 4843
~~that~~ the county in which they live, as determined by the 4844
department under section 175.23 of the Revised Code. 4845

(2) ~~The remainder of the~~ Any money granted and loaned under 4846
this section in any fiscal year that is not granted or loaned 4847
pursuant to division (E)(1) of this section shall be for 4848
activities that ~~will~~ provide affordable housing and housing 4849
assistance to families and individuals ~~in a county~~ whose incomes 4850
are equal to or less than eighty per cent of the median income for 4851
~~that~~ the county in which they live, as determined by the 4852
department under section 175.23 of the Revised Code. 4853

(F) In making grants, loans, loan guarantees, and loan subsidies under this section, the department and the agency shall give preference to viable projects and activities that ~~will~~ benefit those families and individuals ~~in a county~~ whose incomes are equal to or less than thirty-five per cent of the median income for ~~that~~ the county in which they live, as determined by the department under section 175.23 of the Revised Code.

(G) The department and the agency shall monitor the programs developed under this section to ensure that money granted and loaned under this section is not used in a manner that violates division (H) of section 4112.02 of the Revised Code or discriminates against families with children.

Sec. 183.02. This section's references to years mean state fiscal years.

All payments received by the state pursuant to the tobacco master settlement agreement shall be deposited into the state treasury to the credit of the tobacco master settlement agreement fund, which is hereby created. All investment earnings of the fund shall also be credited to the fund. Except as provided in division (K) of this section, payments and interest credited to the fund shall be transferred by the director of budget and management as follows:

(A)(1) Of the first payment credited to the tobacco master settlement agreement fund in 2000 and the net amounts credited to the fund annually from 2000 to 2006 and in 2012, the following amount or percentage shall be transferred to the tobacco use prevention and cessation trust fund, created in section 183.03 of the Revised Code:

YEAR	AMOUNT OR PERCENTAGE	
2000 (first payment credited)	\$104,855,222.85	

2000 (net amount credited)	70.30%	4884
2001	62.84	4885
2002	61.41	4886
2003	63.24	4887
2004	66.65	4888
2005	66.24	4889
2006	65.97	4890
2012	56.01	4891

(2) Of the net amounts credited to the tobacco master settlement agreement fund in 2013, the director shall transfer to the tobacco use prevention and cessation trust fund the amount not transferred to the tobacco use prevention and cessation trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2002 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general assembly. Of the net amounts credited to the tobacco master settlement agreement fund in 2014, the director shall transfer to the tobacco use prevention and cessation trust fund the amount not transferred to the tobacco use prevention and cessation trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2003 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general assembly. Of the net amounts credited to the tobacco master settlement agreement fund in 2015, the director shall transfer to the tobacco use prevention and cessation trust fund the amount not transferred to the tobacco use prevention and cessation trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2004 due to H.B. _____ of the 125th general assembly.

(B) Of the first payment credited to the tobacco master settlement agreement fund in 2000 and the net amounts credited to the fund annually in 2000 and 2001, the following amount or percentage shall be transferred to the law enforcement

improvements trust fund, created in section 183.10 of the Revised Code: 4916
4917

YEAR	AMOUNT OR PERCENTAGE	
2000 (first payment credited)	\$10,000,000	4918 4919
2000 (net amount credited)	5.41%	4920
2001	2.32	4921

(C)~~(1)~~ Of the first payment credited to the tobacco master settlement agreement fund in 2000 and the net amounts credited to the fund annually from 2000 to 2011, the following percentages shall be transferred to the southern Ohio agricultural and community development trust fund, created in section 183.11 of the Revised Code: 4922
4923
4924
4925
4926
4927

YEAR	PERCENTAGE	
2000 (first payment credited)	5.00%	4928 4929
2000 (net amount credited)	8.73	4930
2001	8.12	4931
2002	9.18	4932
2003	8.91	4933
2004	7.84	4934
2005	7.79	4935
2006	7.76	4936
2007	17.39	4937
2008 through 2011	17.25	4938

~~(2) Of the net amounts credited to the tobacco master settlement agreement fund in 2013, the director shall transfer to the southern Ohio agricultural and community development trust fund the amount not transferred to the southern Ohio agricultural and community development trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2002 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general~~ 4939
4940
4941
4942
4943
4944
4945

~~assembly. Of the net amounts credited to the tobacco master 4946
settlement agreement fund in 2014, the director shall transfer to 4947
the southern Ohio agricultural and community development trust 4948
fund the amount not transferred to the southern Ohio agricultural 4949
and community development trust fund from the net amounts credited 4950
to the tobacco master settlement agreement fund in 2003 due to Am. 4951
Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general 4952
assembly. 4953~~

(D)~~(1)~~ The following percentages of the net amounts credited 4954
to the tobacco master settlement agreement fund annually shall be 4955
transferred to Ohio's public health priorities trust fund, created 4956
in section 183.18 of the Revised Code: 4957

YEAR	PERCENTAGE	
2000	5.41	4959
2001	6.68	4960
2002	6.79	4961
2003	6.90	4962
2004	7.82	4963
2005	8.18	4964
2006	8.56	4965
2007	19.83	4966
2008	19.66	4967
2009	20.48	4968
2010	21.30	4969
2011	22.12	4970
2012	10.47	4971

~~(2) Of the net amounts credited to the tobacco master 4972
settlement agreement fund in 2013, the director shall transfer to 4973
Ohio's public health priorities trust fund the amount not 4974
transferred to Ohio's public health priorities trust fund from the 4975
net amounts credited to the tobacco master settlement agreement 4976
fund in 2002 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 4977~~

~~242 of the 124th general assembly. Of the net amounts credited to 4978
the tobacco master settlement agreement fund in 2014, the director 4979
shall transfer to Ohio's public health priorities trust fund the 4980
amount not transferred to Ohio's public health priorities trust 4981
fund from the net amounts credited to the tobacco master 4982
settlement agreement fund in 2003 due to Am. Sub. H.B. No. 405 and 4983
Am. Sub. S.B. No. 242 of the 124th general assembly. 4984~~

(E) The following percentages of the net amounts credited to 4985
the tobacco master settlement agreement fund annually shall be 4986
transferred to the biomedical research and technology transfer 4987
trust fund, created in section 183.19 of the Revised Code: 4988

YEAR	PERCENTAGE	
2000	2.71	4990
2001	14.03	4991
2002	13.29	4992
2003	12.73	4993
2004	13.78	4994
2005	14.31	4995
2006	14.66	4996
2007	49.57	4997
2008 to 2011	45.06	4998
2012	18.77	4999

(F) Of the amounts credited to the tobacco master settlement 5000
agreement fund annually, the following amounts shall be 5001
transferred to the education facilities trust fund, created in 5002
section 183.26 of the Revised Code: 5003

YEAR	AMOUNT	
2000	\$133,062,504.95	5005
2001	128,938,732.73	5006
2002	185,804,475.78	5007
2003	180,561,673.11	5008
2004	122,778,219.49	5009

2005	121,389,325.80	5010
2006	120,463,396.67	5011
2007	246,389,369.01	5012
2008 to 2011	267,531,291.85	5013
2012	110,954,545.28	5014

(G) Of the amounts credited to the tobacco master settlement agreement fund annually, from 2000 to 2012 five million dollars per year shall be transferred to the education facilities endowment fund, created in section 183.27 of the Revised Code. From 2013 to 2025, the following percentages of the amounts credited to the tobacco master settlement agreement fund annually shall be transferred to the endowment fund:

YEAR	PERCENTAGE	
2013	30.22	5023
2014	33.36	5024
2015 to 2025	40.90	5025

(H) The following percentages of the net amounts credited to the tobacco master settlement agreement fund annually shall be transferred to the education technology trust fund, created in section 183.28 of the Revised Code:

YEAR	PERCENTAGE	
2000	7.44	5031
2001	6.01	5032
2002	9.33	5033
2003	8.22	5034
2004	3.91	5035
2005	3.48	5036
2006	3.05	5037
2007	13.21	5038
2008	18.03	5039
2009	17.21	5040
2010	16.39	5041

2011	15.57	5042
2012	14.75	5043

(I) In each year from 2003 to 2025, after the transfers made under divisions (F) and (G) of this section but prior to the transfers made under divisions (A) to (E) of this section, the director of budget and management shall transfer to the tobacco settlement oversight, administration, and enforcement fund created in section 183.34 of the Revised Code such amount as the director determines necessary to pay the costs incurred by the attorney general in tobacco settlement oversight, administration, and enforcement.

(J) In each year from 2003 to 2025, after the transfers made under divisions (F) and (G) of this section but prior to the transfers made under divisions (A) to (E) of this section, the director of budget and management shall transfer to the tobacco settlement enforcement fund created in section 183.35 of the Revised Code such amount as the director determines necessary to pay the costs incurred by the tax commissioner in the enforcement of divisions (F) and (G) of section 5743.03 of the Revised Code.

(K) If in any year from 2001 to 2012 the payments and interest credited to the tobacco master settlement agreement fund during the year amount to less than the amounts required to be transferred to the education facilities trust fund and the education facilities endowment fund that year, the director of budget and management shall make none of the transfers required by divisions (A) to (J) of this section.

(L) If in any year from 2000 to 2025 the payments credited to the tobacco master settlement agreement fund during the year exceed the following amounts, the director of budget and management shall transfer the excess to the income tax reduction fund, created in section 131.44 of the Revised Code:

YEAR	AMOUNT	
------	--------	--

2000	\$443,892,767.51	5074
2001	348,780,049.22	5075
2002	418,783,038.09	5076
2003	422,746,368.61	5077
2004	352,827,184.57	5078
2005	352,827,184.57	5079
2006	352,827,184.57	5080
2007	352,827,184.57	5081
2008 to 2017	383,779,323.15	5082
2018 to 2025	403,202,282.16	5083

Sec. 183.28. The education technology trust fund is hereby 5084
created in the state treasury. Money credited to the fund shall be 5085
used to pay costs of the ~~Ohio SchoolNet commission under section~~ 5086
~~3301.80 of the Revised Code~~ department of education for school 5087
technology-related activities. All investment earnings of the fund 5088
shall be credited to the fund. 5089

Sec. 305.28. (A) A board of county commissioners, by 5090
resolution, may adopt a cost allocation plan that identifies, 5091
accumulates, and distributes allowable direct and indirect costs 5092
that may be paid from any county special revenue fund, enterprise 5093
fund, or internal service fund to the county general fund, 5094
including funds provided for in sections 307.806 and 307.846 of 5095
the Revised Code. The plan shall use cost principles like those 5096
contained in the United States office of management and budget 5097
circular A-87, "Cost Principles for State, Local, and Indian 5098
Tribal Governments." The plan may include reasonable rates or 5099
charges for general fund direct and indirect costs, administrative 5100
services, and centrally budgeted costs. If rates and charges are 5101
so included, the county shall periodically review them to ensure 5102
that they continue to reflect actual costs. 5103

(B) After the adoption of a cost allocation plan under 5104

division (A) of this section, the board of county commissioners 5105
may adopt a resolution of intent declaring its intention to 5106
allocate costs identified in the plan to any special revenue fund, 5107
enterprise fund, or internal service fund, and identifying the 5108
name of each such fund, any numerical fund identifier, and the 5109
rates or charges to be made. By regular mail or by personal 5110
service, the clerk of the board shall give a certified copy of the 5111
resolution of intent, a copy of the cost allocation plan, and an 5112
estimate of the costs that will be allocated to the particular 5113
fund in the next ensuing fiscal year, to the county elected 5114
official or the board, commission, or other instrumentality of the 5115
county associated with each fund identified in the resolution of 5116
intent. 5117

Within twenty days after the mailing or personal service of 5118
those documents, a recipient county elected official, board, 5119
commission, or other instrumentality may request a meeting with 5120
the board of county commissioners to discuss the rates or charges 5121
in the resolution of intent. The board shall consider their 5122
comments. Not sooner than twenty days after receiving the comments 5123
of all recipients who timely made a request for a meeting, the 5124
board may adopt a resolution to proceed consistent with its cost 5125
allocation plan, which may amend the rates or charges specified in 5126
the resolution of intent. These rates and charges cannot be 5127
charged before the first day of January of the ensuing fiscal year 5128
to any special revenue fund, enterprise fund, or internal service 5129
fund specified in the resolution to proceed with the plan. 5130

(C) After adoption of the resolution to proceed with the cost 5131
allocation plan under division (B) of this section, the board of 5132
county commissioners shall charge, at least annually, each 5133
applicable county elected official, board, commission, or other 5134
instrumentality in a manner consistent with that resolution and 5135
the plan. Notwithstanding sections 5705.14, 5705.15, and 5705.16 5136

of the Revised Code, if the county elected official, board, 5137
commission, or other instrumentality does not reimburse the 5138
general fund as charged, the board may authorize a transfer from 5139
the appropriate special revenue fund, enterprise fund, or internal 5140
service fund to the general fund, or may take any other action to 5141
ensure that the rates or charges are collected and deposited in 5142
the general fund. 5143

(D) The authority granted in this section is in addition to 5144
and not in derogation of the authority granted to the board of 5145
county commissioners in section 307.85, division (B) of section 5146
343.08, section 955.17, division (H) of section 6103.02, and 5147
division (E) of section 6117.02 of the Revised Code. 5148

Sec. 307.202. As used in this section, "rail property" and 5149
"rail service" have the same meanings as in section ~~4981.01~~ 5150
5507.01 of the Revised Code. 5151

The board of county commissioners may acquire, rehabilitate, 5152
and develop rail property and rail service, and may enter into 5153
agreements with ~~the Ohio rail development commission~~, boards of 5154
township trustees, legislative authorities of municipal 5155
corporations, other boards of county commissioners, with other 5156
governmental agencies or organizations, and with private agencies 5157
or organizations in order to achieve those purposes. 5158

Sec. 307.86. Anything to be purchased, leased, leased with an 5159
option or agreement to purchase, or constructed, including, but 5160
not limited to, any product, structure, construction, 5161
reconstruction, improvement, maintenance, repair, or service, 5162
except the services of an accountant, architect, attorney at law, 5163
physician, professional engineer, construction project manager, 5164
consultant, surveyor, or appraiser, by or on behalf of the county 5165
or contracting authority, as defined in section 307.92 of the 5166

Revised Code, at a cost in excess of fifteen thousand dollars, 5167
except as otherwise provided in division (D) of section 713.23 and 5168
in sections 125.04, 307.022, 307.041, 307.861, 339.05, 340.03, 5169
340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 5543.19, 5713.01, 5170
and 6137.05 of the Revised Code, shall be obtained through 5171
competitive bidding. However, competitive bidding is not required 5172
when any of the following applies: 5173

(A) The board of county commissioners, by a unanimous vote of 5174
its members, makes a determination that a real and present 5175
emergency exists, and that determination and the reasons for it 5176
are entered in the minutes of the proceedings of the board, when 5177
either of the following applies: 5178

(1) The estimated cost is less than fifty thousand dollars. 5179

(2) There is actual physical disaster to structures, radio 5180
communications equipment, or computers. 5181

For purposes of this division, "unanimous vote" means all 5182
three members of a board of county commissioners when all three 5183
members are present, or two members of the board if only two 5184
members, constituting a quorum, are present. 5185

Whenever a contract of purchase, lease, or construction is 5186
exempted from competitive bidding under division (A)(1) of this 5187
section because the estimated cost is less than fifty thousand 5188
dollars, but the estimated cost is fifteen thousand dollars or 5189
more, the county or contracting authority shall solicit informal 5190
estimates from no fewer than three persons who could perform the 5191
contract, before awarding the contract. With regard to each such 5192
contract, the county or contracting authority shall maintain a 5193
record of such estimates, including the name of each person from 5194
whom an estimate is solicited. The county or contracting authority 5195
shall maintain the record for the longer of at least one year 5196
after the contract is awarded or the amount of time the federal 5197

government requires. 5198

(B) The purchase consists of supplies or a replacement or 5199
supplemental part or parts for a product or equipment owned or 5200
leased by the county, and the only source of supply for the 5201
supplies, part, or parts is limited to a single supplier. 5202

(C) The purchase is from the federal government, the state, 5203
another county or contracting authority of another county, or a 5204
board of education, township, or municipal corporation. 5205

(D) ~~Public family~~ Family services duties or workforce 5206
development activities are purchased for provision by the county 5207
department of job and family services under section 329.04 of the 5208
Revised Code, or program services, such as direct and ancillary 5209
client services, child day-care, case management services, 5210
residential services, and family resource services, are purchased 5211
for provision by a county board of mental retardation and 5212
developmental disabilities under section 5126.05 of the Revised 5213
Code. 5214

(E) The purchase consists of criminal justice services, 5215
social services programs, family services, or workforce 5216
development activities by the board of county commissioners from 5217
nonprofit corporations or associations under programs funded by 5218
the federal government or by state grants. 5219

(F) The purchase consists of any form of an insurance policy 5220
or contract authorized to be issued under Title XXXIX of the 5221
Revised Code or any form of health care plan authorized to be 5222
issued under Chapter 1751. of the Revised Code, or any combination 5223
of such policies, contracts, or plans that the contracting 5224
authority is authorized to purchase, and the contracting authority 5225
does all of the following: 5226

(1) Determines that compliance with the requirements of this 5227
section would increase, rather than decrease, the cost of the 5228

purchase;	5229
(2) Employs a competent consultant to assist the contracting authority in procuring appropriate coverages at the best and lowest prices;	5230 5231 5232
(3) Requests issuers of the policies, contracts, or plans to submit proposals to the contracting authority, in a form prescribed by the contracting authority, setting forth the coverage and cost of the policies, contracts, or plans as the contracting authority desires to purchase;	5233 5234 5235 5236 5237
(4) Negotiates with the issuers for the purpose of purchasing the policies, contracts, or plans at the best and lowest price reasonably possible.	5238 5239 5240
(G) The purchase consists of computer hardware, software, or consulting services that are necessary to implement a computerized case management automation project administered by the Ohio prosecuting attorneys association and funded by a grant from the federal government.	5241 5242 5243 5244 5245
(H) Child day-care services are purchased for provision to county employees.	5246 5247
(I)(1) Property, including land, buildings, and other real property, is leased for offices, storage, parking, or other purposes, and all of the following apply:	5248 5249 5250
(a) The contracting authority is authorized by the Revised Code to lease the property.	5251 5252
(b) The contracting authority develops requests for proposals for leasing the property, specifying the criteria that will be considered prior to leasing the property, including the desired size and geographic location of the property.	5253 5254 5255 5256
(c) The contracting authority receives responses from prospective lessors with property meeting the criteria specified	5257 5258

in the requests for proposals by giving notice in a manner 5259
substantially similar to the procedures established for giving 5260
notice under section 307.87 of the Revised Code. 5261

(d) The contracting authority negotiates with the prospective 5262
lessors to obtain a lease at the best and lowest price reasonably 5263
possible considering the fair market value of the property and any 5264
relocation and operational costs that may be incurred during the 5265
period the lease is in effect. 5266

(2) The contracting authority may use the services of a real 5267
estate appraiser to obtain advice, consultations, or other 5268
recommendations regarding the lease of property under this 5269
division. 5270

(J) The purchase is made pursuant to section 5139.34 or 5271
sections 5139.41 to 5139.46 of the Revised Code and is of programs 5272
or services that provide case management, treatment, or prevention 5273
services to any felony or misdemeanor delinquent, unruly youth, 5274
or status offender under the supervision of the juvenile court, 5275
including, but not limited to, community residential care, day 5276
treatment, services to children in their home, or electronic 5277
monitoring. 5278

(K) The purchase is made by a public children services agency 5279
pursuant to section 307.92 or 5153.16 of the Revised Code and 5280
consists of family services, programs, or ancillary services that 5281
provide case management, prevention, or treatment services for 5282
children at risk of being or alleged to be abused, neglected, or 5283
dependent children. 5284

Any issuer of policies, contracts, or plans listed in 5285
division (F) of this section and any prospective lessor under 5286
division (I) of this section may have the issuer's or prospective 5287
lessor's name and address, or the name and address of an agent, 5288
placed on a special notification list to be kept by the 5289

contracting authority, by sending the contracting authority that 5290
name and address. The contracting authority shall send notice to 5291
all persons listed on the special notification list. Notices shall 5292
state the deadline and place for submitting proposals. The 5293
contracting authority shall mail the notices at least six weeks 5294
prior to the deadline set by the contracting authority for 5295
submitting proposals. Every five years the contracting authority 5296
may review this list and remove any person from the list after 5297
mailing the person notification of that action. 5298

Any contracting authority that negotiates a contract under 5299
division (F) of this section shall request proposals and 5300
renegotiate with issuers in accordance with that division at least 5301
every three years from the date of the signing of such a contract. 5302

Any consultant employed pursuant to division (F) of this 5303
section and any real estate appraiser employed pursuant to 5304
division (I) of this section shall disclose any fees or 5305
compensation received from any source in connection with that 5306
employment. 5307

Sec. 307.98. Each board of county commissioners shall enter 5308
into a one or more written ~~partnership agreement~~ fiscal agreements 5309
with the director of job and family services in accordance with 5310
section 5101.21 of the Revised Code. ~~Prior to entering into or~~ 5311
~~substantially amending the agreement, the board shall conduct a~~ 5312
~~public hearing and consult with the county family services~~ 5313
~~planning committee established under section 329.06 of the Revised~~ 5314
~~Code. Through the hearing and consultation, the board shall obtain~~ 5315
~~comments and recommendations concerning what would be the county's~~ 5316
~~obligations and responsibilities under the agreement or amendment.~~ 5317
~~As evidence that the board consulted with the county family~~ 5318
~~services planning committee, the committee's chair shall sign a~~ 5319
~~letter confirming that the consultation occurred, which shall be~~ 5320

~~attached to the partnership agreement and any substantial~~ 5321
~~amendments to the agreement. The boards shall enter into the~~ 5322
~~agreements on behalf of their county family services agencies.~~ 5323

Sec. 307.981. (A)(1) As used in the Revised Code: 5324

(a) "County family services agency" means all of the 5325
following: 5326

(i) A child support enforcement agency; 5327

(ii) A county department of job and family services; 5328

(iii) A public children services agency. 5329

(b) "Family services duty" means a duty state law requires or 5330
allows a county family services agency to assume, including 5331
financial and general administrative duties. 5332

(2) As used in sections 307.981 to 307.989 of the Revised 5333
Code, "private entity" means an entity other than a government 5334
entity. 5335

(B) To the extent permitted by federal law, including, when 5336
applicable, subpart F of 5 C.F.R. part 900, and subject to any 5337
limitations established by the Revised Code, including division 5338
(H) of this section, a board of county commissioners may designate 5339
any private or government entity within this state to serve as any 5340
of the following: 5341

(1) A child support enforcement agency; 5342

(2) A county department of job and family services; 5343

(3) A public children services agency; 5344

(4) A county department of job and family services and one 5345
other of those county family services agencies; 5346

(5) All three of those county family services agencies; 5347

~~(6) A workforce development agency;~~ 5348

~~(7) A workforce development agency and a county department of job and family services;~~ 5349
5350

~~(8) A workforce development agency and a county department of job and family services and one or two of the other county family services agencies.~~ 5351
5352
5353

(C) A To the extent permitted by federal law, including, when applicable, subpart F of 5 C.F.R. part 900, and subject to any limitations of the Revised Code, including division (H) of this section, a board of county commissioners may change the designation it makes under division (B) of this section by designating another private or government entity. 5354
5355
5356
5357
5358
5359

(D) ~~If the director of job and family services determines that~~ a designation under division (B) or (C) of this section constitutes a ~~substantial~~ change from ~~what is the designation in the current partnership~~ a fiscal agreement between the director of job and family services and the board of county commissioners ~~under section 5101.21 of the Revised Code,~~ the director may require that the director and board amend the ~~partnership~~ fiscal agreement and that the board provide the director written assurances that the newly designated private or government entity will meet or exceed all requirements of the family services duties ~~or workforce development activities~~ the entity is to assume. 5360
5361
5362
5363
5364
5365
5366
5367
5368
5369
5370

(E) Not less than sixty days before a board of county commissioners designates an entity under division (B) or (C) of this section, the board shall notify the director of job and family services and publish notice in a newspaper of general circulation in the county of the board's intention to make the designation and reasons for the designation. 5371
5372
5373
5374
5375
5376

(F) A board of county commissioners shall enter into a written contract with each entity it designates under division (B) or (C) of this section specifying the entity's responsibilities 5377
5378
5379

and standards the entity is required to meet. 5380

(G) This section does not require a board of county 5381
commissioners to abolish the child support enforcement agency, 5382
county department of job and family services, or public children 5383
services agency serving the county on October 1, 1997, and 5384
designate a different private or government entity to serve as the 5385
county's child support enforcement agency, county department of 5386
job and family services, or public children services agency. 5387

(H) If a county children services board appointed under 5388
section 5153.03 of the Revised Code serves as a public children 5389
services agency for a county, the board of county commissioners 5390
may not redesignate the public children services agency unless the 5391
board of county commissioners does all of the following: 5392

(1) Notifies the county children services board of its intent 5393
to redesignate the public children services agency. In its 5394
notification, the board of county commissioners shall provide the 5395
county children services board a written explanation of the 5396
administrative, fiscal, or performance considerations causing the 5397
board of county commissioners to seek to redesignate the public 5398
children services agency. 5399

(2) Provides the county children services board an 5400
opportunity to comment on the proposed redesignation before the 5401
redesignation occurs; 5402

(3) If the county children services board, not more than 5403
sixty days after receiving the notice under division (H)(1) of 5404
this section, notifies the board of county commissioners that the 5405
county children services board has voted to oppose the 5406
redesignation, votes unanimously to proceed with the 5407
redesignation. 5408

Sec. 307.987. To the extent federal ~~statutes and regulations~~ 5409

and state law permit, ~~a partnership agreement entered into under~~ 5410
~~section 307.98, a contract entered into under section 307.981 or~~ 5411
~~307.982,~~ a plan of cooperation entered into under section 307.983, 5412
a regional plan of cooperation entered into under section 307.984, 5413
a transportation work plan developed under section 307.985, and 5414
procedures established under section 307.986 of the Revised Code 5415
shall permit the exchange of information needed to improve 5416
services and assistance to individuals and families and the 5417
protection of children. A private or government entity that 5418
receives information pursuant to ~~an agreement, contract,~~ a plan, 5419
or procedures is bound by the same standards of confidentiality as 5420
the entity that provides the information. 5421

~~An agreement, contract,~~ A plan, or procedures shall: 5422

(A) Be coordinated and not conflict with another ~~agreement,~~ 5423
~~contract,~~ plan, or procedures or an agreement entered into under 5424
section 329.05 of the Revised Code; 5425

(B) Prohibit discrimination in hiring and promotion against 5426
applicants for and participants of the Ohio works first program 5427
established under Chapter 5107. of the Revised Code and the 5428
prevention, retention, and contingency program established under 5429
Chapter 5108. of the Revised Code; 5430

(C) Comply with federal ~~statutes and regulations~~ and state 5431
law; 5432

(D) Be adopted by resolution of a board of county 5433
commissioners; 5434

(E) Specify how the ~~agreement, contract,~~ plan, or procedures 5435
may be amended. 5436

Sec. 311.17. For the services specified in this section, the 5437
sheriff shall charge the following fees, which the court or its 5438
clerk ~~thereof~~ shall tax in the bill of costs against the judgment 5439

debtor or those legally liable therefor <u>for the judgment</u> :	5440
(A) For the service and return of the following writs and orders:	5441
	5442
(1) Execution:	5443
(a) When money is paid without levy or when no property is found, five <u>twenty</u> dollars;	5444
	5445
(b) When levy is made on real property, for the first tract, twenty <u>twenty-five</u> dollars, and for each additional tract, five <u>ten</u> dollars;	5446
	5447
	5448
(c) When levy is made on goods and chattels, including inventory, twenty-five <u>fifty</u> dollars.	5449
	5450
(2) Writ of attachment of property, except for purpose of garnishment, twenty <u>forty</u> dollars;	5451
	5452
(3) Writ of attachment for the purpose of garnishment, five <u>ten</u> dollars;	5453
	5454
(4) Writ of replevin, twenty <u>forty</u> dollars;	5455
(5) Warrant to arrest, for each person named in the writ, five <u>ten</u> dollars;	5456
	5457
(6) Attachment for contempt, for each person named in the writ, three <u>six</u> dollars;	5458
	5459
(7) Writ of possession or restitution, twenty <u>sixty</u> dollars;	5460
(8) Subpoena, for each person named in the writ, if in <u>either</u> a civil <u>or criminal</u> case three, six <u>three, six</u> dollars, if in a criminal case one-dollar;	5461
	5462
	5463
(9) Venire, for each person named in the writ, if in <u>either</u> a civil <u>or criminal</u> case three, six <u>three, six</u> dollars, if in a criminal case one-dollar;	5464
	5465
	5466
(10) Summoning each juror, other than on venire, if in <u>either</u> a civil <u>or criminal</u> case three, six <u>three, six</u> dollars, if in a criminal case	5467
	5468

one dollar;	5469
(11) Writ of partition, fifteen <u>twenty-five</u> dollars;	5470
(12) Order of sale on partition, for the first tract,	5471
twenty-five <u>fifty</u> dollars, and for each additional tract, five	5472
<u>twenty-five</u> dollars;	5473
(13) Other order of sale of real property, for the first	5474
tract, twenty <u>fifty</u> dollars, and for each additional tract, five	5475
<u>twenty-five</u> dollars;	5476
(14) Administering oath to appraisers, one dollar and fifty	5477
cents <u>three dollars</u> each;	5478
(15) Furnishing copies for advertisements, fifty cents <u>one</u>	5479
<u>dollar</u> for each hundred words;	5480
(16) Copy of indictment, for each defendant, two <u>five</u>	5481
dollars;	5482
(17) All summons, writs, orders, or notices, for the first	5483
name, three <u>six</u> dollars, and for each additional name, fifty cents	5484
<u>one dollar</u> .	5485
(B) In addition to the fee for service and return, the	5486
sheriff may charge:	5487
(1) On each summons, writ, order, or notice, a fee of fifty	5488
cents <u>one dollar</u> per mile for the first mile, and twenty <u>fifty</u>	5489
cents per mile for each additional mile, going and returning,	5490
actual mileage to be charged on each additional name;	5491
(2) Taking bail bond, one dollar <u>three dollars</u> ;	5492
(3) Jail fees, as follows:	5493
(a) For receiving a prisoner, four <u>five</u> dollars <u>each time a</u>	5494
<u>prisoner is received</u> , and for discharging or surrendering a	5495
prisoner, four <u>five</u> dollars; <u>each time a prisoner is discharged or</u>	5496
<u>surrendered. The departure or return of a prisoner from or to a</u>	5497

jail in connection with a program established under section 5498
5147.28 of the Revised Code is not a receipt, discharge, or 5499
surrender of the prisoner for purposes of this division. 5500

(b) Taking a prisoner before a judge or court, per day, ~~three~~ 5501
five dollars; 5502

(c) Calling action, ~~fifty cents~~ one dollar; 5503

(d) Calling jury, ~~one dollar~~ three dollars; 5504

(e) Calling each witness, ~~one dollar~~ three dollars; 5505

(f) Bringing prisoner before court on habeas corpus, ~~four~~ six 5506
dollars; 5507

(4) Poundage on all moneys actually made and paid to the 5508
sheriff on execution, decree, or sale of real estate, one and 5509
one-half per cent; 5510

(5) Making and executing a deed of land sold on execution, 5511
decree, or order of the court, to be paid by the purchaser, 5512
~~twenty-five~~ fifty dollars. 5513

When any of the ~~foregoing~~ services described in division (A) 5514
or (B) of this section are rendered by an officer or employee, 5515
whose salary or per diem compensation is paid by the county, the 5516
applicable legal fees and any other extraordinary expenses, 5517
including overtime, provided for ~~such the service in this section~~ 5518
shall be taxed in the costs in the case, and, when ~~such fees are~~ 5519
collected ~~they,~~ shall be paid into the general fund of the county. 5520

The sheriff shall charge the same fees for the execution of 5521
process issued in any other state as ~~he~~ the sheriff charges for 5522
the execution of process of a substantively similar nature that is 5523
issued in this state. 5524

Sec. 317.32. The county recorder shall charge and collect the 5525
following fees, to include base fees for the recorder's services 5526

and housing trust fund fees, collected pursuant to section 317.36 5527
of the Revised Code: 5528

(A) For recording and indexing an instrument when the 5529
photocopy or any similar process is employed, a base fee of 5530
fourteen dollars for the first two pages and a housing trust fund 5531
fee of fourteen dollars, and a base fee of four dollars and a 5532
housing trust fund fee of four dollars for each subsequent page, 5533
size eight and one-half inches by fourteen inches, or fraction of 5534
a page, including the caption page, of such instrument; 5535

(B) For certifying a photocopy from the record previously 5536
recorded, a base fee of one dollar and a housing trust fund fee of 5537
one dollar per page, size eight and one-half inches by fourteen 5538
inches, or fraction of a page; for each certification where the 5539
recorder's seal is required, except as to instruments issued by 5540
the armed forces of the United States, a base fee of fifty cents 5541
and a housing trust fund fee of fifty cents; 5542

(C) For manual or typewritten recording of assignment or 5543
satisfaction of mortgage or lease or any other marginal entry, a 5544
base fee of four dollars and a housing trust fund fee of four 5545
dollars; 5546

(D) For entering any marginal reference by separate recorded 5547
instrument, a base fee of two dollars and a housing trust fund fee 5548
of two dollars for each marginal reference set out in that 5549
instrument, in addition to the ~~recording fee~~ fees set forth in 5550
division (A) of this section; 5551

(E) For indexing in the real estate mortgage records, 5552
pursuant to section 1309.519 of the Revised Code, financing 5553
statements covering crops growing or to be grown, timber to be 5554
cut, minerals or the like, including oil and gas, accounts subject 5555
to section 1309.301 of the Revised Code, or fixture filings made 5556
pursuant to section 1309.334 of the Revised Code, a base fee of 5557

two dollars and a housing trust fund fee of two dollars for each 5558
name indexed; 5559

(F) For recording manually any plat not exceeding six lines, 5560
a base fee of two dollars and a housing trust fund fee of two 5561
dollars, and for each additional line, a base fee of ten cents and 5562
a housing trust fund fee of ten cents; 5563

(G) For filing zoning resolutions, including text and maps, 5564
in the office of the recorder as required under sections 303.11 5565
and 519.11 of the Revised Code, a base fee of fifty dollars and a 5566
housing trust fund fee of fifty dollars, regardless of the size or 5567
length of the resolutions; 5568

(H) For filing zoning amendments, including text and maps, in 5569
the office of the recorder as required under sections 303.12 and 5570
519.12 of the Revised Code, a base fee of ten dollars and a 5571
housing trust fund fee of ten dollars for the first page and a 5572
base fee of four dollars and a housing trust fund fee of four 5573
dollars for each additional page; 5574

(I) For photocopying a document, other than at the time of 5575
recording and indexing as provided for in division (A) of this 5576
section, a base fee of one dollar and a housing trust fund fee of 5577
one dollar per page, size eight and one-half inches by fourteen 5578
inches, or fraction thereof; 5579

(J) For local facsimile transmission of a document, a base 5580
fee of one dollar and a housing trust fund fee of one dollar per 5581
page, size eight and one-half inches by fourteen inches, or 5582
fraction thereof; for long distance facsimile transmission of a 5583
document, a base fee of two dollars and a housing trust fund fee 5584
of two dollars per page, size eight and one-half inches by 5585
fourteen inches, or fraction thereof; 5586

(K) For recording a declaration executed pursuant to section 5587
2133.02 of the Revised Code or a durable power of attorney for 5588

health care executed pursuant to section 1337.12 of the Revised Code, or both a declaration and a durable power of attorney for health care, a base fee of at least fourteen dollars but not more than twenty dollars and a housing trust fund fee of at least fourteen dollars but not more than twenty dollars.

In any county in which the recorder employs the photostatic or any similar process for recording maps, plats, or prints the recorder shall determine, charge, and collect for the recording or rerecording of any map, plat, or print, a base fee of five cents and a housing trust fund fee of five cents per square inch, for each square inch of the map, plat, or print filed for that recording or rerecording, with a minimum base fee of twenty dollars and a minimum housing trust fund fee of twenty dollars; for certifying a copy from the record, a base fee of two cents and a housing trust fund fee of two cents per square inch of the record, with a minimum base fee of two dollars and a minimum housing trust fund fee of two dollars.

The fees provided in this section shall be paid upon the presentation of the instruments for record or upon the application for any certified copy of the record, except that the payment of fees associated with the filing and recording of, or the copying of, notices of internal revenue tax liens and notices of other liens in favor of the United States as described in division (A) of section 317.09 of the Revised Code and certificates of discharge or release of those liens, shall be governed by section 317.09 of the Revised Code, and the payment of fees for providing copies of instruments conveying or extinguishing agricultural easements to the office of farmland preservation under division (G) of section 5301.691 of the Revised Code shall be governed by that division.

Sec. 317.36. (A) The county recorder shall collect the low-

and moderate-income housing trust fund fee as specified in 5620
sections 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, 5621
5111.021, 5310.15, 5719.07, 5727.56, 5733.18, 5733.22, 6101.09, 5622
and 6115.09 of the Revised Code. The amount of any housing trust 5623
fund fee the recorder is authorized to collect is equal to the 5624
amount of any base fee the recorder is authorized to collect for 5625
services. The housing trust fund fee shall be collected in 5626
addition to the base fee. 5627

(B) The recorder shall certify the amounts collected as 5628
housing trust fund fees pursuant to division (A) of this section 5629
into the county treasury as housing trust fund fees, collected 5630
solely to provide revenue for the low- and moderate-income housing 5631
trust fund in the state treasury created under section 175.21 of 5632
the Revised Code. 5633

~~Sec. 319.302. After complying with section 319.301 of the~~ 5634
~~Revised Code, the county auditor shall reduce the remaining sums~~ 5635
~~to be levied against each parcel of real (A) Real property listed~~ 5636
~~on the general current tax list and duplicate of real and public~~ 5637
~~utility property for the current tax year, and against each~~ 5638
~~manufactured and or mobile home that is homes taxed pursuant to~~ 5639
~~division (D)(2) of section 4503.06 of the Revised Code and that is~~ 5640
~~listed on the current manufactured home tax list for the current~~ 5641
~~tax year, by ten per cent. Except shall be exempted from taxation~~ 5642
~~to the extent provided in division (A)(1), (2), or (3) of this~~ 5643
~~section. The exemption shall be effected by the county auditor~~ 5644
~~reducing the sums remaining to be levied against such real~~ 5645
~~property and manufactured or mobile homes by the amounts~~ 5646
~~prescribed in those divisions after the reduction under section~~ 5647
~~319.301 of the Revised Code:~~ 5648

(1) Ten per cent of the remaining sums in the case of a tract 5649
or parcel of real property classified according to use as 5650

agricultural; 5651

(2) Ten per cent of the remaining sums in the case of a tract 5652
or parcel of real property classified according to use as 5653
residential and on which is situated a single-family or two-family 5654
dwelling. If the dwelling qualifies for the reduction in taxes 5655
under division (B) of section 323.152 of the Revised Code for the 5656
current tax year or would qualify if an application for the 5657
reduction had been filed, the ten per cent reduction shall apply 5658
only to the extent of the remaining sums to be levied on the first 5659
one million dollars in true value of those tracts, including the 5660
true value of the dwelling. 5661

(3) Ten per cent of the remaining sums in the case of a 5662
manufactured or mobile home. If the manufactured or mobile home 5663
qualifies for the reduction in taxes under division (B) of section 5664
323.152 of the Revised Code for the current tax year or would 5665
qualify if an application for the reduction had been filed, the 5666
ten per cent reduction shall apply to the home and the tract or 5667
parcel of land on which the home is situated only to the extent of 5668
the remaining sums to be levied on the first one million dollars 5669
in true value of the tract or parcel and the home. The reduction 5670
shall be applied first to the sums to be levied against the tract 5671
or parcel of land if owned by the owner of the home and then, if 5672
the maximum reduction is not exceeded after such application, to 5673
the sums to be levied against the manufactured or mobile home. 5674

(4) Five per cent of the remaining sums in the case of all 5675
other real property. 5676

(B) Except as otherwise provided in sections 323.152, 5677
323.158, 505.06, and 715.263 of the Revised Code, the amount of 5678
the taxes remaining after ~~such reduction~~ the exemption is applied 5679
under this section shall be the real and public utility property 5680
taxes charged and payable, and the manufactured home tax charged 5681
and payable, ~~on each property and shall be the amounts that are~~ 5682

certified to the county treasurer for collection. Upon receipt of 5683
the tax duplicate, the county treasurer shall certify to the tax 5684
commissioner the total amount by which such taxes were reduced 5685
under this section, as shown on the duplicate. ~~Such reduction~~ 5686

(C) The exemption provided in this section shall not directly 5687
or indirectly affect the determination of the principal amount of 5688
notes that may be issued in anticipation of any tax levies or the 5689
amount of bonds or notes for any planned improvements. If after 5690
application of sections 5705.31 and 5705.32 of the Revised Code 5691
and other applicable provisions of law, including division (F) of 5692
section 321.24 of the Revised Code, there would be insufficient 5693
funds for payment of debt charges on bonds or notes payable from 5694
taxes reduced by this section, the ~~reduction of taxes~~ exemption 5695
provided ~~for~~ in this section shall be adjusted to the extent 5696
necessary to provide funds from such taxes. 5697

Sec. 319.63. (A) During the first thirty days of each 5698
calendar quarter, the county auditor shall pay to the treasurer of 5699
state all amounts that the county recorder collected as housing 5700
trust fund fees pursuant to section 317.36 of the Revised Code 5701
during the previous calendar quarter. If payment is made to the 5702
treasurer of state within the first thirty days of the quarter, 5703
the county auditor may retain an administrative fee of one per 5704
cent of the amount of the trust fund fees collected during the 5705
previous calendar quarter. 5706

(B) The treasurer of state shall deposit the first fifty 5707
million dollars of housing trust fund fees received each year 5708
pursuant to this section into the low- and moderate-income housing 5709
trust fund, created under section 175.21 of the Revised Code, and 5710
shall deposit any amounts received each year in excess of fifty 5711
million dollars into the state general revenue fund. 5712

(C) The county auditor shall deposit the administrative fee 5713

that the auditor is permitted to retain pursuant to division (A) 5714
of this section into the county general fund for the county 5715
recorder to use in administering the trust fund fee. 5716

Sec. 321.24. (A) On or before the fifteenth day of February, 5717
in each year, the county treasurer shall settle with the county 5718
auditor for all taxes and assessments that the treasurer has 5719
collected on the general duplicate of real and public utility 5720
property at the time of making the settlement. 5721

(B) On or before the thirtieth day of June, in each year, the 5722
treasurer shall settle with the auditor for all advance payments 5723
of general personal and classified property taxes that the 5724
treasurer has received at the time of making the settlement. 5725

(C) On or before the tenth day of August, in each year, the 5726
treasurer shall settle with the auditor for all taxes and 5727
assessments that the treasurer has collected on the general 5728
duplicates of real and public utility property at the time of 5729
making such settlement, not included in the preceding February 5730
settlement. 5731

(D) On or before the thirty-first day of October, in each 5732
year, the treasurer shall settle with the auditor for all taxes 5733
that the treasurer has collected on the general personal and 5734
classified property duplicates, and for all advance payments of 5735
general personal and classified property taxes, not included in 5736
the preceding June settlement, that the treasurer has received at 5737
the time of making such settlement. 5738

(E) In the event the time for the payment of taxes is 5739
extended, pursuant to section 323.17 of the Revised Code, the date 5740
on or before which settlement for the taxes so extended must be 5741
made, as herein prescribed, shall be deemed to be extended for a 5742
like period of time. At each such settlement, the auditor shall 5743
allow to the treasurer, on the moneys received or collected and 5744

accounted for by the treasurer, the treasurer's fees, at the rate 5745
or percentage allowed by law, at a full settlement of the 5746
treasurer. 5747

(F) Within thirty days after the day of each settlement of 5748
taxes required under divisions (A) and (C) of this section, the 5749
treasurer shall certify to the tax commissioner any adjustments 5750
which have been made to the amount certified previously pursuant 5751
to section 319.302 of the Revised Code and that the settlement has 5752
been completed. Upon receipt of such certification, the 5753
commissioner shall provide for payment to the county treasurer 5754
from the general revenue fund of an amount equal to one-half of 5755
the amount certified by the treasurer in the preceding tax year 5756
under section 319.302 of the Revised Code, less one-half of the 5757
amount computed for all taxing districts in that county for the 5758
current fiscal year under section 5703.60 of the Revised Code for 5759
crediting to the property tax administration fund. Such payment 5760
shall be credited upon receipt to the county's undivided income 5761
tax fund, and the county auditor shall transfer to the county 5762
general fund from the amount thereof the total amount of all fees 5763
and charges which the auditor and treasurer would have been 5764
authorized to receive had such section not been in effect and that 5765
amount had been levied and collected as taxes. The county auditor 5766
shall distribute the amount remaining among the various taxing 5767
districts in the county as if it had been levied, collected, and 5768
settled as real property taxes. The amount distributed to each 5769
taxing district shall be reduced by the total of the amounts 5770
computed for the district under divisions (A), (B), and (C) of 5771
section 5703.60 of the Revised Code, but the reduction shall not 5772
exceed the amount that otherwise would be distributed to the 5773
taxing district under this division. The tax commissioner shall 5774
make available to taxing districts such information as is 5775
sufficient for a taxing district to be able to determine the 5776
amount of the reduction in its distribution under this section. 5777

(G)(1) Within thirty days after the day of the settlement 5778
required in division (D) of this section, the county treasurer 5779
shall ~~certify to~~ notify the tax commissioner that the settlement 5780
has been completed. Upon receipt of that ~~certification~~ 5781
notification, the commissioner shall provide for payment to the 5782
county treasurer from the general revenue fund of an amount equal 5783
to the amount ~~certified under section 319.311 of the Revised Code~~ 5784
~~in the current year paid in the state's fiscal year 2003~~ 5785
multiplied by the percentage specified in division (G)(2) of this 5786
section. The payment shall be credited upon receipt to the 5787
county's undivided income tax fund, and the county auditor shall 5788
distribute the amount thereof among the various taxing districts 5789
of the county as if it had been levied, collected, and settled as 5790
personal property taxes. The amount received by a taxing district 5791
under this division shall be apportioned among its funds in the 5792
same proportion as the current year's personal property taxes are 5793
apportioned. 5794

(2) Payments required under division (G)(1) of this section 5795
shall be made at the following percentages of the amount paid 5796
under division (G) of this section in the state's fiscal year 5797
2003: 5798

(a) In fiscal year 2004, ninety per cent; 5799

(b) In fiscal year 2005, eighty per cent; 5800

(c) In fiscal year 2006, seventy per cent; 5801

(d) In fiscal year 2007, sixty per cent; 5802

(e) In fiscal year 2008, fifty per cent; 5803

(f) In fiscal year 2009, forty per cent; 5804

(g) In fiscal year 2010, thirty per cent; 5805

(h) In fiscal year 2011, twenty per cent; 5806

(i) In fiscal year 2012, ten per cent. 5807

After fiscal year 2012, no payments shall be made under 5808
division (G) of this section. 5809

(H)(1) On or before the fifteenth day of April each year, the 5810
county treasurer shall settle with the county auditor for all 5811
manufactured home taxes that the county treasurer has collected on 5812
the manufactured home tax duplicate at the time of making the 5813
settlement. 5814

(2) On or before the fifteenth day of September each year, 5815
the county treasurer shall settle with the county auditor for all 5816
remaining manufactured home taxes that the county treasurer has 5817
collected on the manufactured home tax duplicate at the time of 5818
making the settlement. 5819

(3) If the time for payment of such taxes is extended under 5820
section 4503.06 of the Revised Code, the time for making the 5821
settlement as prescribed by divisions (H)(1) and (2) of this 5822
section is extended for a like period of time. 5823

Sec. 323.01. Except as otherwise provided, as used in Chapter 5824
323. of the Revised Code: 5825

(A) "Subdivision" means any county, township, school 5826
district, or municipal corporation. 5827

(B) "Municipal corporation" includes charter municipalities. 5828

(C) "Taxes" means the total amount of all charges against an 5829
entry appearing on a tax list and the duplicate thereof that was 5830
prepared and certified in accordance with section 319.28 of the 5831
Revised Code, including taxes levied against real estate; taxes on 5832
property whose value is certified pursuant to section 5727.23 of 5833
the Revised Code; recoupment charges applied pursuant to section 5834
5713.35 of the Revised Code; all assessments; penalties and 5835
interest charged pursuant to section 323.121 of the Revised Code; 5836
charges added pursuant to section 319.35 of the Revised Code; and 5837

all of such charges which remain unpaid from any previous tax year. 5838
5839

(D) "Current taxes" means all taxes charged against an entry on the general tax list and duplicate of real and public utility property that have not appeared on such list and duplicate for any prior tax year and any penalty thereon charged by division (A) of section 323.121 of the Revised Code. Current taxes, whether or not they have been certified delinquent, become delinquent taxes if they remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty. 5840
5841
5842
5843
5844
5845
5846
5847

(E) "Delinquent taxes" means: 5848

(1) Any taxes charged against an entry on the general tax list and duplicate of real and public utility property that were charged against an entry on such list and duplicate for a prior tax year and any penalties and interest charged against such taxes. 5849
5850
5851
5852
5853

(2) Any current taxes charged on the general tax list and duplicate of real and public utility property that remain unpaid after the last day prescribed for payment of the second installment of such taxes without penalty, whether or not they have been certified delinquent, and any penalties and interest charged against such taxes. 5854
5855
5856
5857
5858
5859

(F) "Current tax year" means, with respect to particular taxes, the calendar year in which the first installment of taxes is due prior to any extension granted under section 323.17 of the Revised Code. 5860
5861
5862
5863

(G) "Liquidated claim" means: 5864

(1) Any sum of money due and payable, upon a written contractual obligation executed between the subdivision and the taxpayer, but excluding any amount due on general and special assessment bonds and notes; 5865
5866
5867
5868

(2) Any sum of money due and payable, for disability 5869
financial assistance or disability medical assistance provided 5870
under Chapter 5115. of the Revised Code that is furnished to or in 5871
behalf of a subdivision, provided that such claim is recognized by 5872
a resolution or ordinance of the legislative body of such 5873
subdivision; 5874

(3) Any sum of money advanced and paid to or received and 5875
used by a subdivision, pursuant to a resolution or ordinance of 5876
such subdivision or its predecessor in interest, and the moral 5877
obligation to repay which sum, when in funds, shall be recognized 5878
by resolution or ordinance by the subdivision. 5879

Sec. 323.13. Except as provided in section 323.134 of the 5880
Revised Code, immediately upon receipt of any tax duplicate from 5881
the county auditor, but not less than twenty days prior to the 5882
last date on which the first one-half taxes may be paid without 5883
penalty as prescribed in section 323.12 or 323.17 of the Revised 5884
Code, the county treasurer shall cause to be prepared and mailed 5885
or delivered to each person charged on such duplicate with taxes 5886
or to an agent designated by such person, the tax bill prescribed 5887
by the commissioner of tax equalization under section 323.131 of 5888
the Revised Code. When taxes are paid by installments, the county 5889
treasurer shall mail or deliver to each person charged on such 5890
duplicate or the agent designated by such person, a second tax 5891
bill showing the amount due at the time of the second tax 5892
collection. The second half tax bill shall be mailed or delivered 5893
at least twenty days prior to the close of the second half tax 5894
collection period. 5895

After delivery of the delinquent land duplicate as prescribed 5896
in section 5721.011 of the Revised Code, the county treasurer may 5897
prepare and mail to each person in whose name property therein is 5898
listed an additional tax bill showing the total amount of 5899

delinquent taxes appearing on such duplicate against such 5900
property. The tax bill shall include a notice that the interest 5901
charge prescribed by division (B) of section 323.121 of the 5902
Revised Code has begun to accrue. 5903

A change in the mailing address of any tax bill shall be made 5904
in writing to the county treasurer. 5905

Upon certification by the county auditor of the apportionment 5906
of taxes following the transfer of a part of a tract or lot of 5907
real estate, and upon request by the owner of any transferred or 5908
remaining part of such tract or parcel, the treasurer shall cause 5909
to be prepared and mailed or delivered to such owner a tax bill 5910
for the taxes allocated to ~~his~~ the owner's part, together with the 5911
penalties, interest, and other charges. 5912

Failure to receive any bill required by this section does not 5913
excuse failure or delay to pay any taxes shown on such bill or, 5914
except as provided in division ~~(A)~~(B)(1) of section 5715.39 of the 5915
Revised Code, avoid any penalty, interest, or charge for such 5916
delay. 5917

Sec. 323.152. In addition to the reduction in taxes required 5918
under section 319.302 of the Revised Code, taxes shall be reduced 5919
as provided in divisions (A) and (B) of this section. 5920

(A)(1) Division (A) of this section applies to any of the 5921
following: 5922

(a) A person who is permanently and totally disabled; 5923

(b) A person who is sixty-five years of age or older; 5924

(c) A person who is the surviving spouse of a deceased person 5925
who was permanently and totally disabled or sixty-five years of 5926
age or older and who applied and qualified for a reduction in 5927
taxes under this division in the year of death, provided the 5928
surviving spouse is at least fifty-nine but not sixty-five or more 5929

years of age on the date the deceased spouse dies. 5930

(2) Real property taxes on a homestead owned and occupied, or 5931
a homestead in a housing cooperative occupied, by a person to whom 5932
division (A) of this section applies shall be reduced for each 5933
year for which the owner obtains a certificate of reduction from 5934
the county auditor under section 323.154 of the Revised Code or 5935
for which the occupant obtains a certificate of reduction in 5936
accordance with section 323.159 of the Revised Code. The reduction 5937
shall equal the amount obtained by multiplying the tax rate for 5938
the tax year for which the certificate is issued by the reduction 5939
in taxable value shown in the following schedule: 5940

Total Income	Reduce Taxable Value by the Lesser of:	
\$11,900 or less	\$5,000 or seventy-five per cent	5943
More than \$11,900 but not more than \$17,500	\$3,000 or sixty per cent	5944
More than \$17,500 but not more than \$23,000	\$1,000 or twenty-five per cent	5945
More than \$23,000	-0-	5946

(3) Each calendar year, the tax commissioner shall adjust the 5947
foregoing schedule by completing the following calculations in 5948
September of each year: 5949

(a) Determine the percentage increase in the gross domestic 5950
product deflator determined by the bureau of economic analysis of 5951
the United States department of commerce from the first day of 5952
January of the preceding calendar year to the last day of December 5953
of the preceding calendar year; 5954

(b) Multiply that percentage increase by each of the total 5955
income amounts, and by each dollar amount by which taxable value 5956
is reduced, for the current tax year; 5957

(c) Add the resulting product to each of the total income 5958

amounts, and to each of the dollar amounts by which taxable value is reduced, for the current tax year;

(d) Round the resulting sum to the nearest multiple of one hundred dollars.

The commissioner shall certify the amounts resulting from the adjustment to each county auditor not later than the first day of December each year. The certified amounts apply to the following tax year. The commissioner shall not make the adjustment in any calendar year in which the amounts resulting from the adjustment would be less than the total income amounts, or less than the dollar amounts by which taxable value is reduced, for the current tax year.

(B) Real property taxes on any homestead, and manufactured home taxes on any manufactured or mobile home on which a manufactured home tax is assessed pursuant to division (D)(2) of section 4503.06 of the Revised Code, shall be reduced for each year for which the owner obtains a certificate of reduction from the county auditor under section 323.154 of the Revised Code. The amount of the reduction shall equal ~~one fourth of the amount by which the taxes charged and payable on the homestead or the manufactured or mobile home are reduced for such year under section 319.302 of the Revised Code~~ two and one-half per cent of the amount of taxes to be levied against the homestead or manufactured or mobile home after the reductions required under sections 319.301 and 319.302 of the Revised Code, but the reduction shall apply only to the amount of taxes to be levied on the first one million dollars of the homestead's or home's true value.

(C) The reductions granted by this section do not apply to special assessments or respread of assessments levied against the homestead, and if there is a transfer of ownership subsequent to the filing of an application for a reduction in taxes, such

reductions are not forfeited for such year by virtue of such 5991
transfer. 5992

(D) The reductions in taxable value referred to in this 5993
section shall be applied solely as a factor for the purpose of 5994
computing the reduction of taxes under this section and shall not 5995
affect the total value of property in any subdivision or taxing 5996
district as listed and assessed for taxation on the tax lists and 5997
duplicates, or any direct or indirect limitations on indebtedness 5998
of a subdivision or taxing district. If after application of 5999
sections 5705.31 and 5705.32 of the Revised Code, including the 6000
allocation of all levies within the ten-mill limitation to debt 6001
charges to the extent therein provided, there would be 6002
insufficient funds for payment of debt charges not provided for by 6003
levies in excess of the ten-mill limitation, the reduction of 6004
taxes provided for in sections 323.151 to 323.159 of the Revised 6005
Code shall be proportionately adjusted to the extent necessary to 6006
provide such funds from levies within the ten-mill limitation. 6007

(E) No reduction shall be made on the taxes due on the 6008
homestead of any person convicted of violating division (C) or (D) 6009
of section 323.153 of the Revised Code for a period of three years 6010
following the conviction. 6011

Sec. 329.03. (A) As used in this section: 6012

(1) "Applicant" or "recipient" means an applicant for or 6013
participant in the Ohio works first program established under 6014
Chapter 5107. of the Revised Code or an applicant for or recipient 6015
of disability financial assistance under Chapter 5115. of the 6016
Revised Code. 6017

(2) "Voluntary direct deposit" means a system established 6018
pursuant to this section under which cash assistance payments to 6019
recipients who agree to direct deposit are made by direct deposit 6020
by electronic transfer to an account in a financial institution 6021

designated under this section. 6022

(3) "Mandatory direct deposit" means a system established 6023
pursuant to this section under which cash assistance payments to 6024
all participants in the Ohio works first program or recipients of 6025
disability financial assistance, other than those exempt under 6026
division (E) of this section, are made by direct deposit by 6027
electronic transfer to an account in a financial institution 6028
designated under this section. 6029

(B) A board of county commissioners may by adoption of a 6030
resolution require the county department of job and family 6031
services to establish a direct deposit system for distributing 6032
cash assistance payments under Ohio works first, disability 6033
financial assistance, or both, unless the director of job and 6034
family services has provided for those payments to be made by 6035
electronic benefit transfer pursuant to section 5101.33 of the 6036
Revised Code. Voluntary or mandatory direct deposit may be applied 6037
to either of the programs. The resolution shall specify for each 6038
program for which direct deposit is to be established whether 6039
direct deposit is voluntary or mandatory. The board may require 6040
the department to change or terminate direct deposit by adopting a 6041
resolution to change or terminate it. Within ninety days after 6042
adopting a resolution under this division, the board shall certify 6043
one copy of the resolution to the director of job and family 6044
services and one copy to the office of budget and management. The 6045
director of job and family services may adopt rules governing 6046
establishment of direct deposit by county departments of job and 6047
family services. 6048

The county department of job and family services shall 6049
determine what type of account will be used for direct deposit and 6050
negotiate with financial institutions to determine the charges, if 6051
any, to be imposed by a financial institution for establishing and 6052
maintaining such accounts. Under voluntary direct deposit, the 6053

county department of job and family services may pay all charges 6054
imposed by a financial institution for establishing and 6055
maintaining an account in which direct deposits are made for a 6056
recipient. Under mandatory direct deposit, the county department 6057
of job and family services shall pay all charges imposed by a 6058
financial institution for establishing and maintaining such an 6059
account. No financial institution shall impose any charge for such 6060
an account that the institution does not impose on its other 6061
customers for the same type of account. Direct deposit does not 6062
affect the exemption of Ohio works first and disability financial 6063
assistance from attachment, garnishment, or other like process 6064
afforded by sections 5107.75 and ~~5115.07~~ 5115.06 of the Revised 6065
Code. 6066

(C) The county department of job and family services shall, 6067
within sixty days after a resolution requiring the establishment 6068
of direct deposit is adopted, establish procedures governing 6069
direct deposit. 6070

Within one hundred eighty days after the resolution is 6071
adopted, the county department shall: 6072

(1) Inform each applicant or recipient of the procedures 6073
governing direct deposit, including in the case of voluntary 6074
direct deposit those that prescribe the conditions under which a 6075
recipient may change from one method of payment to another; 6076

(2) Obtain from each applicant or recipient an authorization 6077
form to designate a financial institution equipped for and 6078
authorized by law to accept direct deposits by electronic transfer 6079
and the account into which the applicant or recipient wishes the 6080
payments to be made, or in the case of voluntary direct deposit 6081
states the applicant's or recipient's election to receive such 6082
payments in the form of a paper warrant. 6083

The department may require a recipient to complete a new 6084

authorization form whenever the department considers it necessary. 6085

A recipient's designation of a financial institution and 6086
account shall remain in effect until withdrawn in writing or 6087
dishonored by the financial institution, except that no change may 6088
be made in the authorization form until the next eligibility 6089
redetermination of the recipient unless the department feels that 6090
good grounds exist for an earlier change. 6091

(D) An applicant or recipient without an account who either 6092
agrees or is required to receive payments by direct deposit shall 6093
have ten days after receiving the authorization form to designate 6094
an account suitable for direct deposit. If within the required 6095
time the applicant or recipient does not make the designation or 6096
requests that the department make the designation, the department 6097
shall designate a financial institution and help the recipient to 6098
open an account. 6099

(E) At the time of giving an applicant or recipient the 6100
authorization form, the county department of job and family 6101
services of a county with mandatory direct deposit shall inform 6102
each applicant or recipient of the basis for exemption and the 6103
right to request exemption from direct deposit. 6104

Under mandatory direct deposit, an applicant or recipient who 6105
wishes to receive payments in the form of a paper warrant shall 6106
record on the authorization form a request for exemption under 6107
this division and the basis for the exemption. 6108

The department shall exempt from mandatory direct deposit any 6109
recipient who requests exemption and is any of the following: 6110

(1) Over age sixty-five; 6111

(2) Blind or disabled; 6112

(3) Likely, in the judgment of the department, to be caused 6113
personal hardship by direct deposit. 6114

A recipient granted an exemption under this division shall 6115
receive payments for which the recipient is eligible in the form 6116
of paper warrants. 6117

(F) The county department of job and family services shall 6118
bear the full cost of the amount of any replacement warrant issued 6119
to a recipient for whom an authorization form as provided in this 6120
section has not been obtained within one hundred eighty days after 6121
the later of the date the board of county commissioners adopts a 6122
resolution requiring payments of financial assistance by direct 6123
deposit to accounts of recipients of Ohio works first or 6124
disability financial assistance or the date the recipient made 6125
application for assistance, and shall not be reimbursed by the 6126
state for any part of the cost. Thereafter, the county department 6127
of job and family services shall continue to bear the full cost of 6128
each replacement warrant issued until the board of county 6129
commissioners requires the county department of job and family 6130
services to obtain from each such recipient the authorization 6131
forms as provided in this section. 6132

Sec. 329.04. (A) The county department of job and family 6133
services shall have, exercise, and perform the following powers 6134
and duties: 6135

(1) Perform any duties assigned by the state department of 6136
job and family services regarding the provision of public family 6137
services, including the provision of the following services to 6138
prevent or reduce economic or personal dependency and to 6139
strengthen family life: 6140

(a) Services authorized by a Title IV-A program, as defined 6141
in section 5101.80 of the Revised Code; 6142

(b) Social services authorized by Title XX of the "Social 6143
Security Act" and provided for by section 5101.46 of the Revised 6144

Code; 6145

(c) If the county department is designated as the child 6146
support enforcement agency, services authorized by Title IV-D of 6147
the "Social Security Act" and provided for by Chapter 3125. of the 6148
Revised Code. The county department may perform the services 6149
itself or contract with other government entities, and, pursuant 6150
to division (C) of section 2301.35 and section 2301.42 of the 6151
Revised Code, private entities, to perform the Title IV-D 6152
services. 6153

(2) Administer disability financial assistance ~~under Chapter~~ 6154
~~5115. of the Revised Code,~~ as required by the state department of 6155
job and family services under section 5115.03 of the Revised Code; 6156

(3) Administer disability medical assistance, as required by 6157
the state department of job and family services under section 6158
5115.13 of the Revised Code; 6159

~~(3)~~(4) Administer burials insofar as the administration of 6160
burials was, prior to September 12, 1947, imposed upon the board 6161
of county commissioners and if otherwise required by state law; 6162

~~(4)~~(5) Cooperate with state and federal authorities in any 6163
matter relating to family services and to act as the agent of such 6164
authorities; 6165

~~(5)~~(6) Submit an annual account of its work and expenses to 6166
the board of county commissioners and to the state department of 6167
job and family services at the close of each fiscal year; 6168

~~(6)~~(7) Exercise any powers and duties relating to family 6169
services duties or workforce development activities imposed upon 6170
the county department of job and family services by law, by 6171
resolution of the board of county commissioners, or by order of 6172
the governor, when authorized by law, to meet emergencies during 6173
war or peace; 6174

~~(7)~~(8) Determine the eligibility for medical assistance of recipients of aid under Title XVI of the "Social Security Act";

~~(8)~~(9) If assigned by the state director of job and family services under section 5101.515 of the Revised Code, determine applicants' eligibility for health assistance under the children's health insurance program part II;

~~(9)~~(10) Enter into a plan of cooperation with the board of county commissioners under section 307.983, consult with the board in the development of the transportation work plan developed under section 307.985, establish with the board procedures under section 307.986 for providing services to children whose families relocate frequently, and comply with the contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the county department;

~~(10)~~(11) For the purpose of complying with a ~~partnership~~ fiscal agreement the board of county commissioners enters into under section 307.98 of the Revised Code, exercise the powers and perform the duties the ~~partnership~~ fiscal agreement assigns to the county department;

~~(11)~~(12) If the county department is designated as the workforce development agency, provide the workforce development activities specified in the contract required by section 330.05 of the Revised Code.

(B) The powers and duties of a county department of job and family services are, and shall be exercised and performed, under the control and direction of the board of county commissioners. The board may assign to the county department any power or duty of the board regarding family services duties and workforce development activities. If the new power or duty necessitates the state department of job and family services changing its federal cost allocation plan, the county department may not implement the

power or duty unless the United States department of health and 6206
human services approves the changes. 6207

Sec. 329.05. The county department of job and family services 6208
may administer or assist in administering any state or local 6209
family services ~~activity~~ duty in addition to those mentioned in 6210
section 329.04 of the Revised Code, supported wholly or in part by 6211
public funds from any source provided by agreement between the 6212
board of county commissioners and the officer, department, board, 6213
or agency in which the administration of such activity is vested. 6214
Such officer, department, board, or agency may enter into such 6215
agreement and confer upon the county department of job and family 6216
services, to the extent and in particulars specified in the 6217
agreement, the performance of any duties and the exercise of any 6218
powers imposed upon or vested in such officer, board, department, 6219
or agency, with respect to the administration of such activity. 6220
Such agreement shall be in the form of a resolution of the board 6221
of county commissioners, accepted in writing by the other party to 6222
the agreement, and filed in the office of the county auditor, and 6223
when so filed, shall have the effect of transferring the exercise 6224
of the powers and duties to which the agreement relates and shall 6225
exempt the other party from all further responsibility for the 6226
exercise of the powers and duties so transferred, during the life 6227
of the agreement. 6228

Such agreement shall be coordinated and not conflict with a 6229
~~partnership~~ fiscal agreement entered into under section 307.98, a 6230
contract entered into under section 307.981 or 307.982, a plan of 6231
cooperation entered into under section 307.983, a regional plan of 6232
cooperation entered into under section 307.984, a transportation 6233
work plan developed under section 307.985, or procedures for 6234
providing services to children whose families relocate frequently 6235
established under section 307.986 of the Revised Code. It may be 6236
revoked at the option of either party, by a resolution or order of 6237

the revoking party filed in the office of the auditor. Such 6238
revocation shall become effective at the end of the fiscal year 6239
occurring at least six months following the filing of the 6240
resolution or order. In the absence of such an express revocation 6241
so filed, the agreement shall continue indefinitely. 6242

This section does not permit a county department of job and 6243
family services to manage or control hospitals, humane societies, 6244
detention facilities, jails or probation departments of courts, or 6245
veterans service commissions. 6246

Sec. 329.051. The county department of job and family 6247
services shall make voter registration applications as prescribed 6248
by the secretary of state under section 3503.10 of the Revised 6249
Code available to persons who are applying for, receiving 6250
assistance from, or participating in any of the following: 6251

(A) The disability financial assistance program established 6252
under Chapter 5115. of the Revised Code; 6253

(B) The disability medical assistance program established 6254
under Chapter 5115. of the Revised Code; 6255

(C) The medical assistance program established under Chapter 6256
5111. of the Revised Code; 6257

~~(C)~~(D) The Ohio works first program established under Chapter 6258
5107. of the Revised Code; 6259

~~(D)~~(E) The prevention, retention, and contingency program 6260
established under Chapter 5108. of the Revised Code. 6261

Sec. 329.06. (A) Except as provided in division (C) of this 6262
section and section 6301.08 of the Revised Code, the board of 6263
county commissioners shall establish a county family services 6264
planning committee. The board shall appoint a member to represent 6265
the county department of job and family services; an employee in 6266

the classified civil service of the county department of job and 6267
family services, if there are any such employees; and a member to 6268
represent the public. The board shall appoint other individuals to 6269
the committee in such a manner that the committee's membership is 6270
broadly representative of the groups of individuals and the public 6271
and private entities that have an interest in the family services 6272
provided in the county. The board shall make appointments in a 6273
manner that reflects the ethnic and racial composition of the 6274
county. The following groups and entities may be represented on 6275
the committee: 6276

(1) Consumers of family services; 6277

(2) The public children services agency; 6278

(3) The child support enforcement agency; 6279

(4) The county family and children first council; 6280

(5) Public and private colleges and universities; 6281

(6) Public entities that provide family services, including 6282
boards of health, boards of education, the county board of mental 6283
retardation and developmental disabilities, and the board of 6284
alcohol, drug addiction, and mental health services that serves 6285
the county; 6286

(7) Private nonprofit and for-profit entities that provide 6287
family services in the county or that advocate for consumers of 6288
family services in the county, including entities that provide 6289
services to or advocate for victims of domestic violence; 6290

(8) Labor organizations; 6291

(9) Any other group or entity that has an interest in the 6292
family services provided in the county, including groups or 6293
entities that represent any of the county's business, urban, and 6294
rural sectors. 6295

(B) The county family services planning committee shall do 6296

all of the following: 6297

(1) Serve as an advisory body to the board of county 6298
commissioners with regard to the family services provided in the 6299
county, including assistance under Chapters 5107. and 5108. of the 6300
Revised Code, publicly funded child day-care under Chapter 5104. 6301
of the Revised Code, and social services provided under section 6302
5101.46 of the Revised Code; 6303

(2) At least once a year, review and analyze the county 6304
department of job and family services' implementation of the 6305
programs established under Chapters 5107. and 5108. of the Revised 6306
Code. In its review, the committee shall use information available 6307
to it to examine all of the following: 6308

(a) Return of assistance groups to participation in either 6309
program after ceasing to participate; 6310

(b) Teen pregnancy rates among the programs' participants; 6311

(c) The other types of assistance the programs' participants 6312
receive, including medical assistance under Chapter 5111. of the 6313
Revised Code, publicly funded child day-care under Chapter 5104. 6314
of the Revised Code, food stamp benefits under section 5101.54 of 6315
the Revised Code, and energy assistance under Chapter 5117. of the 6316
Revised Code; 6317

(d) Other issues the committee considers appropriate. 6318

The committee shall make recommendations to the board of 6319
county commissioners and county department of job and family 6320
services regarding the committee's findings. 6321

~~(3) Provide comments and recommendations to the board prior 6322
to the board's entering into or substantially amending a 6323
partnership agreement with the director of job and family services 6324
under section 307.98 of the Revised Code; 6325~~

~~(4) Conduct public hearings on proposed county profiles for 6326~~

the provision of social services under section 5101.46 of the Revised Code;

~~(5)~~(4) At the request of the board, make recommendations and provide assistance regarding the family services provided in the county;

~~(6)~~(5) At any other time the committee considers appropriate, consult with the board and make recommendations regarding the family services provided in the county. The committee's recommendations may address the following:

(a) Implementation and administration of family service programs;

(b) Use of federal, state, and local funds available for family service programs;

(c) Establishment of goals to be achieved by family service programs;

(d) Evaluation of the outcomes of family service programs;

(e) Any other matter the board considers relevant to the provision of family services.

(C) If there is a committee in existence in a county on October 1, 1997, that the board of county commissioners determines is capable of fulfilling the responsibilities of a county family services planning committee, the board may designate the committee as the county's family services planning committee and the committee shall serve in that capacity.

Sec. 340.03. (A) Subject to rules issued by the director of mental health after consultation with relevant constituencies as required by division (A)(11) of section 5119.06 of the Revised Code, with regard to mental health services, the board of alcohol, drug addiction, and mental health services shall:

(1) Serve as the community mental health planning agency for the county or counties under its jurisdiction, and in so doing it shall:

(a) Evaluate the need for facilities and community mental health services;

(b) In cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations, assess the community mental health needs, set priorities, and develop plans for the operation of facilities and community mental health services;

(c) In accordance with guidelines issued by the director of mental health after consultation with board representatives, develop and submit to the department of mental health, no later than six months prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire, a community mental health plan listing community mental health needs, including the needs of all residents of the district now residing in state mental institutions and severely mentally disabled adults, children, and adolescents; all children subject to a determination made pursuant to section 121.38 of the Revised Code; and all the facilities and community mental health services that are or will be in operation or provided during the period for which the plan will be in operation in the service district to meet such needs.

The plan shall include, but not be limited to, a statement of which of the services listed in section 340.09 of the Revised Code the board intends to provide or purchase, an explanation of how the board intends to make any payments that it may be required to pay under section 5119.62 of the Revised Code, a statement of the inpatient and community-based services the board proposes that the department operate, an assessment of the number and types of

residential facilities needed, and such other information as the 6387
department requests, and a budget for moneys the board expects to 6388
receive. The board shall also submit an allocation request for 6389
state and federal funds. Within sixty days after the department's 6390
determination that the plan and allocation request are complete, 6391
the department shall approve or disapprove the plan and request, 6392
in whole or in part, according to the criteria developed pursuant 6393
to section 5119.61 of the Revised Code. The department's statement 6394
of approval or disapproval shall specify the inpatient and the 6395
community-based services that the department will operate for the 6396
board. Eligibility for financial support shall be contingent upon 6397
an approved plan or relevant part of a plan. 6398

If the director disapproves all or part of any plan, the 6399
director shall inform the board of the reasons for the disapproval 6400
and of the criteria that must be met before the plan may be 6401
approved. The director shall provide the board an opportunity to 6402
present its case on behalf of the plan. The director shall give 6403
the board a reasonable time in which to meet the criteria, and 6404
shall offer the board technical assistance to help it meet the 6405
criteria. 6406

If the approval of a plan remains in dispute thirty days 6407
prior to the conclusion of the fiscal year in which the board's 6408
current plan is scheduled to expire, the board or the director may 6409
request that the dispute be submitted to a mutually agreed upon 6410
third-party mediator with the cost to be shared by the board and 6411
the department. The mediator shall issue to the board and the 6412
department recommendations for resolution of the dispute. Prior to 6413
the conclusion of the fiscal year in which the current plan is 6414
scheduled to expire, the director, taking into consideration the 6415
recommendations of the mediator, shall make a final determination 6416
and approve or disapprove the plan, in whole or in part. 6417

If a board determines that it is necessary to amend a plan or 6418

an allocation request that has been approved under division 6419
(A)(1)(c) of this section, the board shall submit a proposed 6420
amendment to the director. The director may approve or disapprove 6421
all or part of the amendment. If the director does not approve all 6422
or part of the amendment within thirty days after it is submitted, 6423
the amendment or part of it shall be considered to have been 6424
approved. The director shall inform the board of the reasons for 6425
disapproval of all or part of an amendment and of the criteria 6426
that must be met before the amendment may be approved. The 6427
director shall provide the board an opportunity to present its 6428
case on behalf of the amendment. The director shall give the board 6429
a reasonable time in which to meet the criteria, and shall offer 6430
the board technical assistance to help it meet the criteria. 6431

The board shall implement the plan approved by the 6432
department. 6433

(d) Receive, compile, and transmit to the department of 6434
mental health applications for state reimbursement; 6435

(e) Promote, arrange, and implement working agreements with 6436
social agencies, both public and private, and with judicial 6437
agencies. 6438

(2) Investigate, or request another agency to investigate, 6439
any complaint alleging abuse or neglect of any person receiving 6440
services from a community mental health agency as defined in 6441
section 5122.01 of the Revised Code, or from a residential 6442
facility licensed under section 5119.22 of the Revised Code. If 6443
the investigation substantiates the charge of abuse or neglect, 6444
the board shall take whatever action it determines is necessary to 6445
correct the situation, including notification of the appropriate 6446
authorities. Upon request, the board shall provide information 6447
about such investigations to the department. 6448

(3) For the purpose of section 5119.611 of the Revised Code, 6449

cooperate with the director of mental health in visiting and 6450
evaluating whether the services of a community mental health 6451
agency satisfy the certification standards established by rules 6452
adopted under that section; 6453

(4) In accordance with criteria established under division 6454
(G) of section 5119.61 of the Revised Code, review and evaluate 6455
the quality, effectiveness, and efficiency of services provided 6456
through its community mental health plan and submit its findings 6457
and recommendations to the department of mental health; 6458

(5) In accordance with section 5119.22 of the Revised Code, 6459
review applications for residential facility licenses and 6460
recommend to the department of mental health approval or 6461
disapproval of applications; 6462

(6) Audit, in accordance with rules adopted by the auditor of 6463
state pursuant to section 117.20 of the Revised Code, at least 6464
annually all programs and services provided under contract with 6465
the board. In so doing, the board may contract for or employ the 6466
services of private auditors. A copy of the fiscal audit report 6467
shall be provided to the director of mental health, the auditor of 6468
state, and the county auditor of each county in the board's 6469
district. 6470

(7) Recruit and promote local financial support for mental 6471
health programs from private and public sources; 6472

(8)(a) Enter into contracts with public and private 6473
facilities for the operation of facility services included in the 6474
board's community mental health plan and enter into contracts with 6475
public and private community mental health agencies for the 6476
provision of community mental health services listed in section 6477
340.09 of the Revised Code and included in the board's community 6478
mental health plan. Contracts with community mental health 6479
agencies are subject to section 5119.611 of the Revised Code. 6480

Section 307.86 of the Revised Code does not apply to contracts 6481
entered into under this division. In contracting with a community 6482
mental health agency, a board shall consider the cost 6483
effectiveness of services provided by that agency and the quality 6484
and continuity of care, and may review cost elements, including 6485
salary costs, of the services to be provided. A utilization review 6486
process shall be established as part of the contract for services 6487
entered into between a board and a community mental health agency. 6488
The board may establish this process in a way that is most 6489
effective and efficient in meeting local needs. In the case of a 6490
contract with a community mental health facility ~~described, as~~ 6491
defined in ~~division (B) of~~ section 5111.022 of the Revised Code, 6492
to provide services ~~established by~~ listed in division ~~(A)(B)~~ of 6493
that section, the contract shall provide for the facility to be 6494
paid in accordance with the contract entered into between the 6495
departments of job and family services and mental health under 6496
~~division (E) of that~~ section 5111.91 of the Revised Code and any 6497
rules adopted under division (A) of section 5119.61 of the Revised 6498
Code. 6499

If either the board or a facility or community mental health 6500
agency with which the board contracts under division (A)(8)(a) of 6501
this section proposes not to renew the contract or proposes 6502
substantial changes in contract terms, the other party shall be 6503
given written notice at least one hundred twenty days before the 6504
expiration date of the contract. During the first sixty days of 6505
this one hundred twenty-day period, both parties shall attempt to 6506
resolve any dispute through good faith collaboration and 6507
negotiation in order to continue to provide services to persons in 6508
need. If the dispute has not been resolved sixty days before the 6509
expiration date of the contract, either party may notify the 6510
department of mental health of the unresolved dispute. The 6511
director may require both parties to submit the dispute to a third 6512
party with the cost to be shared by the board and the facility or 6513

community mental health agency. The third party shall issue to the board, the facility or agency, and the department recommendations on how the dispute may be resolved twenty days prior to the expiration date of the contract, unless both parties agree to a time extension. The director shall adopt rules establishing the procedures of this dispute resolution process.

(b) With the prior approval of the director of mental health, a board may operate a facility or provide a community mental health service as follows, if there is no other qualified private or public facility or community mental health agency that is immediately available and willing to operate such a facility or provide the service:

(i) In an emergency situation, any board may operate a facility or provide a community mental health service in order to provide essential services for the duration of the emergency;

(ii) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year;

(iii) In a service district with a population of less than one hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year, except that such a board may operate a facility or provide a community mental health service for more than one year with the prior approval of the director and the prior approval of the board of county commissioners, or of a majority of the boards of county commissioners if the district is a joint-county district.

The director shall not give a board approval to operate a facility or provide a community mental health service under division (A)(8)(b)(ii) or (iii) of this section unless the director determines that it is not feasible to have the department

operate the facility or provide the service. 6545

The director shall not give a board approval to operate a 6546
facility or provide a community mental health service under 6547
division (A)(8)(b)(iii) of this section unless the director 6548
determines that the board will provide greater administrative 6549
efficiency and more or better services than would be available if 6550
the board contracted with a private or public facility or 6551
community mental health agency. 6552

The director shall not give a board approval to operate a 6553
facility previously operated by a person or other government 6554
entity unless the board has established to the director's 6555
satisfaction that the person or other government entity cannot 6556
effectively operate the facility or that the person or other 6557
government entity has requested the board to take over operation 6558
of the facility. The director shall not give a board approval to 6559
provide a community mental health service previously provided by a 6560
community mental health agency unless the board has established to 6561
the director's satisfaction that the agency cannot effectively 6562
provide the service or that the agency has requested the board 6563
take over providing the service. 6564

The director shall review and evaluate a board's operation of 6565
a facility and provision of community mental health service under 6566
division (A)(8)(b) of this section. 6567

Nothing in division (A)(8)(b) of this section authorizes a 6568
board to administer or direct the daily operation of any facility 6569
or community mental health agency, but a facility or agency may 6570
contract with a board to receive administrative services or staff 6571
direction from the board under the direction of the governing body 6572
of the facility or agency. 6573

(9) Approve fee schedules and related charges or adopt a unit 6574
cost schedule or other methods of payment for contract services 6575

provided by community mental health agencies in accordance with 6576
guidelines issued by the department as necessary to comply with 6577
state and federal laws pertaining to financial assistance; 6578

(10) Submit to the director and the county commissioners of 6579
the county or counties served by the board, and make available to 6580
the public, an annual report of the programs under the 6581
jurisdiction of the board, including a fiscal accounting; 6582

(11) Establish, to the extent resources are available, a 6583
community support system, which provides for treatment, support, 6584
and rehabilitation services and opportunities. The essential 6585
elements of the system include, but are not limited to, the 6586
following components in accordance with section 5119.06 of the 6587
Revised Code: 6588

(a) To locate persons in need of mental health services to 6589
inform them of available services and benefits mechanisms; 6590

(b) Assistance for clients to obtain services necessary to 6591
meet basic human needs for food, clothing, shelter, medical care, 6592
personal safety, and income; 6593

(c) Mental health care, including, but not limited to, 6594
outpatient, partial hospitalization, and, where appropriate, 6595
inpatient care; 6596

(d) Emergency services and crisis intervention; 6597

(e) Assistance for clients to obtain vocational services and 6598
opportunities for jobs; 6599

(f) The provision of services designed to develop social, 6600
community, and personal living skills; 6601

(g) Access to a wide range of housing and the provision of 6602
residential treatment and support; 6603

(h) Support, assistance, consultation, and education for 6604
families, friends, consumers of mental health services, and 6605

others; 6606

(i) Recognition and encouragement of families, friends, 6607
neighborhood networks, especially networks that include racial and 6608
ethnic minorities, churches, community organizations, and 6609
meaningful employment as natural supports for consumers of mental 6610
health services; 6611

(j) Grievance procedures and protection of the rights of 6612
consumers of mental health services; 6613

(k) Case management, which includes continual individualized 6614
assistance and advocacy to ensure that needed services are offered 6615
and procured. 6616

(12) Designate the treatment program, agency, or facility for 6617
each person involuntarily committed to the board pursuant to 6618
Chapter 5122. of the Revised Code and authorize payment for such 6619
treatment. The board shall provide the least restrictive and most 6620
appropriate alternative that is available for any person 6621
involuntarily committed to it and shall assure that the services 6622
listed in section 340.09 of the Revised Code are available to 6623
severely mentally disabled persons residing within its service 6624
district. The board shall establish the procedure for authorizing 6625
payment for services, which may include prior authorization in 6626
appropriate circumstances. The board may provide for services 6627
directly to a severely mentally disabled person when life or 6628
safety is endangered and when no community mental health agency is 6629
available to provide the service. 6630

(13) Establish a method for evaluating referrals for 6631
involuntary commitment and affidavits filed pursuant to section 6632
5122.11 of the Revised Code in order to assist the probate 6633
division of the court of common pleas in determining whether there 6634
is probable cause that a respondent is subject to involuntary 6635
hospitalization and what alternative treatment is available and 6636

appropriate, if any; 6637

(14) Ensure that apartments or rooms built, subsidized, 6638
renovated, rented, owned, or leased by the board or a community 6639
mental health agency have been approved as meeting minimum fire 6640
safety standards and that persons residing in the rooms or 6641
apartments are receiving appropriate and necessary services, 6642
including culturally relevant services, from a community mental 6643
health agency. This division does not apply to residential 6644
facilities licensed pursuant to section 5119.22 of the Revised 6645
Code. 6646

(15) Establish a mechanism for involvement of consumer 6647
recommendation and advice on matters pertaining to mental health 6648
services in the alcohol, drug addiction, and mental health service 6649
district; 6650

(16) Perform the duties under section 3722.18 of the Revised 6651
Code required by rules adopted under section 5119.61 of the 6652
Revised Code regarding referrals by the board or mental health 6653
agencies under contract with the board of individuals with mental 6654
illness or severe mental disability to adult care facilities and 6655
effective arrangements for ongoing mental health services for the 6656
individuals. The board is accountable in the manner specified in 6657
the rules for ensuring that the ongoing mental health services are 6658
effectively arranged for the individuals. 6659

(B) The board shall establish such rules, operating 6660
procedures, standards, and bylaws, and perform such other duties 6661
as may be necessary or proper to carry out the purposes of this 6662
chapter. 6663

(C) A board of alcohol, drug addiction, and mental health 6664
services may receive by gift, grant, devise, or bequest any 6665
moneys, lands, or property for the benefit of the purposes for 6666
which the board is established, and may hold and apply it 6667

according to the terms of the gift, grant, or bequest. All money 6668
received, including accrued interest, by gift, grant, or bequest 6669
shall be deposited in the treasury of the county, the treasurer of 6670
which is custodian of the alcohol, drug addiction, and mental 6671
health services funds to the credit of the board and shall be 6672
available for use by the board for purposes stated by the donor or 6673
grantor. 6674

(D) No board member or employee of a board of alcohol, drug 6675
addiction, and mental health services shall be liable for injury 6676
or damages caused by any action or inaction taken within the scope 6677
of the board member's official duties or the employee's 6678
employment, whether or not such action or inaction is expressly 6679
authorized by this section, section 340.033, or any other section 6680
of the Revised Code, unless such action or inaction constitutes 6681
willful or wanton misconduct. Chapter 2744. of the Revised Code 6682
applies to any action or inaction by a board member or employee of 6683
a board taken within the scope of the board member's official 6684
duties or employee's employment. For the purposes of this 6685
division, the conduct of a board member or employee shall not be 6686
considered willful or wanton misconduct if the board member or 6687
employee acted in good faith and in a manner that the board member 6688
or employee reasonably believed was in or was not opposed to the 6689
best interests of the board and, with respect to any criminal 6690
action or proceeding, had no reasonable cause to believe the 6691
conduct was unlawful. 6692

(E) The meetings held by any committee established by a board 6693
of alcohol, drug addiction, and mental health services shall be 6694
considered to be meetings of a public body subject to section 6695
121.22 of the Revised Code. 6696

Sec. 505.69. As used in this section, "rail property" and 6697
"rail service" have the same meanings as in section ~~4981.01~~ 6698

5507.01 of the Revised Code. 6699

The board of township trustees may acquire, rehabilitate, and 6700
develop rail property and rail service, and may enter into 6701
agreements with ~~the Ohio rail development commission~~, boards of 6702
county commissioners, legislative authorities of municipal 6703
corporations, other boards of township trustees, with other 6704
governmental agencies or organizations, and with private agencies 6705
or organizations in order to achieve those purposes. 6706

Sec. 715.013. (A) Except as otherwise expressly authorized by 6707
the Revised Code, no municipal corporation shall levy a tax that 6708
is the same as or similar to a tax levied under Chapter 322., 6709
3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307., 4309., 6710
5707., 5725., 5727., 5728., 5729., 5731., 5735., 5737., 5739., 6711
5741., 5743., or 5749. of the Revised Code. 6712

(B) This section does not prohibit a municipal corporation 6713
from levying a tax on ~~amounts~~ any of the following: 6714

(1) Amounts received for admission to any place ~~or, on and~~ 6715
~~after January 1, 2002, on the;~~ 6716

(2) The income of an electric company or combined company, as 6717
defined in section 5727.01 of the Revised Code; 6718

(3) On and after January 1, 2004, the income of a telephone 6719
company, as defined in section 5727.01 of the Revised Code. 6720

Sec. 717.01. Each municipal corporation may do any of the 6721
following: 6722

(A) Acquire by purchase or condemnation real estate with or 6723
without buildings on it, and easements or interests in real 6724
estate; 6725

(B) Extend, enlarge, reconstruct, repair, equip, furnish, or 6726
improve a building or improvement that it is authorized to acquire 6727

or construct;	6728
(C) Erect a crematory or provide other means for disposing of garbage or refuse, and erect public comfort stations;	6729 6730
(D) Purchase turnpike roads and make them free;	6731
(E) Construct wharves and landings on navigable waters;	6732
(F) Construct infirmaries, workhouses, prisons, police stations, houses of refuge and correction, market houses, public halls, public offices, municipal garages, repair shops, storage houses, and warehouses;	6733 6734 6735 6736
(G) Construct or acquire waterworks for supplying water to the municipal corporation and its inhabitants and extend the waterworks system outside of the municipal corporation limits;	6737 6738 6739
(H) Construct or purchase gas works or works for the generation and transmission of electricity, for the supplying of gas or electricity to the municipal corporation and its inhabitants;	6740 6741 6742 6743
(I) Provide grounds for cemeteries or crematories, enclose and embellish them, and construct vaults or crematories;	6744 6745
(J) Construct sewers, sewage disposal works, flushing tunnels, drains, and ditches;	6746 6747
(K) Construct free public libraries and reading rooms, and free recreation centers;	6748 6749
(L) Establish free public baths and municipal lodging houses;	6750
(M) Construct monuments or memorial buildings to commemorate the services of soldiers, sailors, and marines of the state and nation;	6751 6752 6753
(N) Provide land for and improve parks, boulevards, and public playgrounds;	6754 6755
(O) Construct hospitals and pesthouses;	6756

(P) Open, construct, widen, extend, improve, resurface, or change the line of any street or public highway;	6757 6758
(Q) Construct and improve levees, dams, waterways, waterfronts, and embankments and improve any watercourse passing through the municipal corporation;	6759 6760 6761
(R) Construct or improve viaducts, bridges, and culverts;	6762
(S)(1) Construct any building necessary for the police or fire department;	6763 6764
(2) Purchase fire engines or fire boats;	6765
(3) Construct water towers or fire cisterns;	6766
(4) Place underground the wires or signal apparatus of any police or fire department.	6767 6768
(T) Construct any municipal ice plant for the purpose of manufacturing ice for the citizens of a municipal corporation;	6769 6770
(U) Construct subways under any street or boulevard or elsewhere;	6771 6772
(V) Acquire by purchase, gift, devise, bequest, lease, condemnation proceedings, or otherwise, real or personal property, and thereon and thereof to establish, construct, enlarge, improve, equip, maintain, and operate airports, landing fields, or other air navigation facilities, either within or outside the limits of a municipal corporation, and acquire by purchase, gift, devise, lease, or condemnation proceedings rights-of-way for connections with highways, waterways, and electric, steam, and interurban railroads, and improve and equip such facilities with structures necessary or appropriate for such purposes. No municipal corporation may take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of the utility or carrier, unless	6773 6774 6775 6776 6777 6778 6779 6780 6781 6782 6783 6784 6785 6786

provision is made for the restoration, relocation, or duplication 6787
of the property or facilities elsewhere at the sole cost of the 6788
municipal corporation. 6789

(W) Provide by agreement with any regional airport authority, 6790
created under section 308.03 of the Revised Code, for the making 6791
of necessary surveys, appraisals, and examinations preliminary to 6792
the acquisition or construction of any airport or airport facility 6793
and pay the portion of the expense of the surveys, appraisals, and 6794
examinations as set forth in the agreement; 6795

(X) Provide by agreement with any regional airport authority, 6796
created under section 308.03 of the Revised Code, for the 6797
acquisition, construction, maintenance, or operation of any 6798
airport or airport facility owned or to be owned and operated by 6799
the regional airport authority or owned or to be owned and 6800
operated by the municipal corporation and pay the portion of the 6801
expense of it as set forth in the agreement; 6802

(Y) Acquire by gift, purchase, lease, or condemnation, land, 6803
forest, and water rights necessary for conservation of forest 6804
reserves, water parks, or reservoirs, either within or without the 6805
limits of the municipal corporation, and improve and equip the 6806
forest and water parks with structures, equipment, and 6807
reforestation necessary or appropriate for any purpose for the 6808
utilization of any of the forest and water benefits that may 6809
properly accrue therefrom to the municipal corporation; 6810

(Z) Acquire real property by purchase, gift, or devise and 6811
construct and maintain on it public swimming pools, either within 6812
or outside the limits of the municipal corporation; 6813

(AA) Construct or rehabilitate, equip, maintain, operate, and 6814
lease facilities for housing of elderly persons and for persons of 6815
low and moderate income, and appurtenant facilities. No municipal 6816
corporation shall deny housing accommodations to or withhold 6817

housing accommodations from elderly persons or persons of low and 6818
moderate income because of race, color, religion, sex, familial 6819
status as defined in section 4112.01 of the Revised Code, 6820
disability as defined in that section, ancestry, or national 6821
origin. Any elderly person or person of low or moderate income who 6822
is denied housing accommodations or has them withheld by a 6823
municipal corporation because of race, color, religion, sex, 6824
familial status as defined in section 4112.01 of the Revised Code, 6825
disability as defined in that section, ancestry, or national 6826
origin may file a charge with the Ohio civil rights commission as 6827
provided in Chapter 4112. of the Revised Code. 6828

(BB) Acquire, rehabilitate, and develop rail property or rail 6829
service, and enter into agreements with ~~the Ohio rail development~~ 6830
~~commission~~, boards of county commissioners, boards of township 6831
trustees, legislative authorities of other municipal corporations, 6832
with other governmental agencies or organizations, and with 6833
private agencies or organizations in order to achieve those 6834
purposes; 6835

(CC) Appropriate and contribute money to a soil and water 6836
conservation district for use under Chapter 1515. of the Revised 6837
Code; 6838

(DD) Authorize the board of county commissioners, pursuant to 6839
a contract authorizing the action, to contract on the municipal 6840
corporation's behalf for the administration and enforcement within 6841
its jurisdiction of the state building code by another county or 6842
another municipal corporation located within or outside the 6843
county. The contract for administration and enforcement shall 6844
provide for obtaining certification pursuant to division (E) of 6845
section 3781.10 of the Revised Code for the exercise of 6846
administration and enforcement authority within the municipal 6847
corporation seeking those services and shall specify which 6848
political subdivision is responsible for securing that 6849

certification. 6850

(EE) Expend money for providing and maintaining services and 6851
facilities for senior citizens. 6852

"Airport," "landing field," and "air navigation facility," as 6853
defined in section 4561.01 of the Revised Code, apply to division 6854
(V) of this section. 6855

As used in divisions (W) and (X) of this section, "airport" 6856
and "airport facility" have the same meanings as in section 308.01 6857
of the Revised Code. 6858

As used in division (BB) of this section, "rail property" and 6859
"rail service" have the same meanings as in section ~~4981.01~~ 6860
5507.01 of the Revised Code. 6861

Sec. 718.01. (A) As used in this chapter: 6862

(1) "Adjusted federal taxable income" has the same meaning as 6863
in section 5745.01 of the Revised Code. 6864

(2) "Internal Revenue Code" means the Internal Revenue Code 6865
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. 6866

~~(2)~~(3) "Schedule C" means internal revenue service schedule C 6867
filed by a taxpayer pursuant to the Internal Revenue Code. 6868

~~(3)~~(4) "Form 2106" means internal revenue service form 2106 6869
filed by a taxpayer pursuant to the Internal Revenue Code. 6870

~~(4)~~(5) "Intangible income" means income of any of the 6871
following types: income yield, interest, dividends, or other 6872
income arising from the ownership, sale, exchange, or other 6873
disposition of intangible property including, but not limited to, 6874
investments, deposits, money, or credits as those terms are 6875
defined in Chapter 5701. of the Revised Code. 6876

~~(5)~~(6) "S corporation" means a corporation that has made an 6877
election under subchapter S of Chapter 1 of Subtitle A of the 6878

Internal Revenue Code for its taxable year. 6879

(7) On and after January 1, 2004, "net profit" means adjusted 6880
federal taxable income calculated on the basis of the Internal 6881
Revenue Code as it exists on the effective date of this amendment. 6882

(8) "Taxpayer" means a person subject to a tax levied by a 6883
municipal corporation on income. 6884

(9) "Taxable year" means a taxpayer's taxable year for 6885
federal income tax purposes. 6886

(10) "Tax administrator" means the individual charged with 6887
direct responsibility for administration of a tax levied by a 6888
municipal corporation on income. 6889

(B) No municipal corporation with respect to that income that 6890
it may tax shall tax such income at other than a uniform rate. 6891

(C) No municipal corporation shall levy a tax on income at a 6892
rate in excess of one per cent without having obtained the 6893
approval of the excess by a majority of the electors of the 6894
municipality voting on the question at a general, primary, or 6895
special election. The legislative authority of the municipal 6896
corporation shall file with the board of elections at least 6897
seventy-five days before the day of the election a copy of the 6898
ordinance together with a resolution specifying the date the 6899
election is to be held and directing the board of elections to 6900
conduct the election. The ballot shall be in the following form: 6901
"Shall the Ordinance providing for a ... per cent levy on income 6902
for (Brief description of the purpose of the proposed levy) be 6903
passed? 6904

FOR THE INCOME TAX 6905

AGAINST THE INCOME TAX" 6906

In the event of an affirmative vote, the proceeds of the levy 6907
may be used only for the specified purpose. 6908

(D)(1) ~~Except as otherwise provided in division (D)(2) or~~ 6909
~~(F)(9) of this section, no~~ No municipal corporation shall exempt 6910
from a tax on income, compensation for personal services of 6911
individuals over eighteen years of age or the net profit from a 6912
business or profession. 6913

(2) ~~The legislative authority of a municipal corporation may,~~ 6914
~~by ordinance or resolution, exempt from a tax on income any~~ 6915
~~compensation arising from the grant, sale, exchange, or other~~ 6916
~~disposition of a stock option; the exercise of a stock option; or~~ 6917
~~the sale, exchange, or other disposition of stock purchased under~~ 6918
~~a stock option.~~ On and after January 1, 2004, no municipal 6919
corporation shall tax the net profit from a business or profession 6920
using any base other than the taxpayer's adjusted federal taxable 6921
income. Division (D)(2) of this section does not apply to any 6922
taxpayer required to file a return under section 5745.03 of the 6923
Revised Code. 6924

(E) ~~Nothing in this section shall prevent~~ Except as provided 6925
in division (D)(2) of this section, a municipal corporation ~~from~~ 6926
~~permitting~~ may permit lawful deductions as prescribed by 6927
ordinance. If a taxpayer's taxable income includes income against 6928
which the taxpayer has taken a deduction for federal income tax 6929
purposes as reportable on the taxpayer's form 2106, and against 6930
which a like deduction has not been allowed by the municipal 6931
corporation, the municipal corporation shall deduct from the 6932
taxpayer's taxable income an amount equal to the deduction shown 6933
on such form allowable against such income, to the extent not 6934
otherwise so allowed as a deduction by the municipal corporation. 6935
In the case of a taxpayer who has a net profit from a business or 6936
profession that is operated as a sole proprietorship, no municipal 6937
corporation may tax or use as the base for determining the amount 6938
of the net profit that shall be considered as having a taxable 6939
situs in the municipal corporation, ~~a greater amount than the net~~ 6940

~~profit reported by the taxpayer on schedule C filed in reference~~ 6941
~~to the year in question as taxable income from such sole~~ 6942
~~proprietorship, except as otherwise specifically provided by~~ 6943
~~ordinance or regulation~~ an amount other than the net profit 6944
required to be reported by the taxpayer on schedule C as taxable 6945
income from such sole proprietorship for the taxable year, but 6946
such amount shall be increased in accordance with the principles 6947
and concepts described in section 5745.042 of the Revised Code as 6948
if the taxpayer were a C corporation. 6949

(F) A municipal corporation shall not tax any of the 6950
following: 6951

(1) The military pay or allowances of members of the armed 6952
forces of the United States and of members of their reserve 6953
components, including the Ohio national guard; 6954

(2) The income of religious, fraternal, charitable, 6955
scientific, literary, or educational institutions to the extent 6956
that such income is derived from tax-exempt real estate, 6957
tax-exempt tangible or intangible property, or tax-exempt 6958
activities; 6959

(3) Except as otherwise provided in division (G) of this 6960
section, intangible income; 6961

(4) Compensation paid under section 3501.28 or 3501.36 of the 6962
Revised Code to a person serving as a precinct election official, 6963
to the extent that such compensation does not exceed one thousand 6964
dollars annually. Such compensation in excess of one thousand 6965
dollars may be subjected to taxation by a municipal corporation. A 6966
municipal corporation shall not require the payer of such 6967
compensation to withhold any tax from that compensation. 6968

(5) Compensation paid to an employee of a transit authority, 6969
regional transit authority, or regional transit commission created 6970
under Chapter 306. of the Revised Code for operating a transit bus 6971

or other motor vehicle for the authority or commission in or 6972
through the municipal corporation, unless the bus or vehicle is 6973
operated on a regularly scheduled route, the operator is subject 6974
to such a tax by reason of residence or domicile in the municipal 6975
corporation, or the headquarters of the authority or commission is 6976
located within the municipal corporation; 6977

(6) The income of a public utility, when that public utility 6978
is subject to the tax levied under section 5727.24 or 5727.30 of 6979
the Revised Code, except ~~starting January 1, 2002, the income of~~ 6980
~~an electric company or combined company, as defined in section~~ 6981
~~5727.01 of the Revised Code, may be taxed by~~ a municipal 6982
corporation may tax the following, subject to Chapter 5745. of the 6983
Revised Code: 6984

(a) Beginning January 1, 2002, the income of an electric 6985
company or combined company; 6986

(b) Beginning January 1, 2004, the income of a telephone 6987
company. 6988

As used in division (F)(6) of this section, "combined 6989
company," "electric company" and "telephone company" have the same 6990
meanings as in section 5727.01 of the Revised Code. 6991

(7) On and after January 1, 2003, items excluded from federal 6992
gross income pursuant to section 107 of the Internal Revenue Code; 6993

(8) On and after January 1, 2001, compensation paid to a 6994
nonresident individual to the extent prohibited under section 6995
718.011 of the Revised Code; 6996

(9) Except as provided in division (H) of this section, an S 6997
corporation shareholder's distributive share of net profits of the 6998
S corporation, other than any part of the distributive share of 6999
net profits that represents wages as defined in section 3121(a) of 7000
the Internal Revenue Code or net earnings from self-employment as 7001
defined in section 1402(a) of the Internal Revenue Code, to the 7002

extent such distributive share would not be allocated or 7003
apportioned to this state under division (B)(1) and (2) of section 7004
5733.05 of the Revised Code if the S corporation were a 7005
corporation subject to the taxes imposed under Chapter 5733. of 7006
the Revised Code. 7007

(10) For taxable years beginning on or after January 1, 2004, 7008
with respect to a nonqualified deferred compensation plan or 7009
program under section 3121(v)(2)(C) of the Internal Revenue Code: 7010

(a) Any amount that is not included in a person's federal 7011
gross income; and 7012

(b) Any amount included in a person's federal gross income to 7013
the extent the municipal corporation imposed a tax on the 7014
nonqualified deferred compensation at the time the compensation 7015
was deferred. 7016

(11) Any amount of compensation included in a person's 7017
federal gross income if the amount may not be subjected to 7018
taxation by the municipal corporation under 4 U.S.C. 114 because 7019
the person is not a resident of the municipal corporation at the 7020
time such compensation is distributed. 7021

(G) Any municipal corporation that taxes any type of 7022
intangible income on March 29, 1988, pursuant to Section 3 of 7023
Amended Substitute Senate Bill No. 238 of the 116th general 7024
assembly, may continue to tax that type of income after 1988 if a 7025
majority of the electors of the municipal corporation voting on 7026
the question of whether to permit the taxation of that type of 7027
intangible income after 1988 vote in favor thereof at an election 7028
held on November 8, 1988. 7029

(H) Any municipal corporation that, on December 6, 2002, 7030
taxes an S corporation shareholder's distributive share of net 7031
profits of the S corporation to any greater extent than that 7032
permitted under division (F)(9) of this section may continue after 7033

2002 to tax such distributive shares to such greater extent only 7034
if a majority of the electors of the municipal corporation voting 7035
on the question of such continuation vote in favor thereof at an 7036
election held on November 4, 2003. If a majority of electors vote 7037
in favor of that question, then, for purposes of section 718.14 of 7038
the Revised Code, "pass-through entity" includes S corporations, 7039
"income from a pass-through entity" includes distributive shares 7040
from an S corporation, and "owner" includes a shareholder of an S 7041
corporation, notwithstanding that section to the contrary. 7042

(I) Nothing in this section or section 718.02 of the Revised 7043
Code shall authorize the levy of any tax on income that a 7044
municipal corporation is not authorized to levy under existing 7045
laws or shall require a municipal corporation to allow a deduction 7046
from taxable income for losses incurred from a sole proprietorship 7047
or partnership. 7048

Sec. 718.02. This section does not apply to electric 7049
~~companies or combined companies, or to electric light companies~~ 7050
~~for which an election made under section 5745.031 taxpayers that~~ 7051
~~are subject to and required to file reports under Chapter 5745. of~~ 7052
~~the Revised Code is in effect.~~ 7053

(A) ~~In the taxation of income that is subject to municipal~~ 7054
~~income taxes, if the books and records of a taxpayer conducting a~~ 7055
~~business or profession both within and without the boundaries of a~~ 7056
~~municipal corporation disclose with reasonable accuracy what~~ 7057
~~portion of its net profit is attributable to that part of the~~ 7058
~~business or profession conducted within the boundaries of the~~ 7059
~~municipal corporation, then only such portion shall be considered~~ 7060
~~as having a taxable situs in such municipal corporation for~~ 7061
~~purposes of municipal income taxation. In the absence of such~~ 7062
~~records, net~~ Net profit from a business or profession conducted 7063
both within and without the boundaries of a municipal corporation 7064

shall be considered as having a taxable situs in such municipal 7065
corporation for purposes of municipal income taxation in the same 7066
proportion as the average ratio of the following: 7067

(1) The average ~~net book value~~ original cost of the real and 7068
tangible personal property owned or used by the taxpayer in the 7069
business or profession in such municipal corporation during the 7070
taxable period to the average ~~net book value~~ original cost of all 7071
of the real and tangible personal property owned or used by the 7072
taxpayer in the business or profession during the same period, 7073
wherever situated. 7074

As used in the preceding paragraph, real property shall 7075
include property rented or leased by the taxpayer and the value of 7076
such property shall be determined by multiplying the annual rental 7077
thereon by eight; 7078

(2) Wages, salaries, and other compensation paid during the 7079
taxable period to persons employed in the business or profession 7080
for services performed in such municipal corporation to wages, 7081
salaries, and other compensation paid during the same period to 7082
persons employed in the business or profession, wherever their 7083
services are performed, excluding compensation that is not taxable 7084
by the municipal corporation under section 718.011 of the Revised 7085
Code; 7086

(3) Gross receipts of the business or profession from sales 7087
made and services performed during the taxable period in such 7088
municipal corporation to gross receipts of the business or 7089
profession during the same period from sales and services, 7090
wherever made or performed. 7091

If the foregoing ~~allocation~~ apportionment formula does not 7092
produce an equitable result, another basis may be substituted, 7093
under uniform regulations, so as to produce an equitable result. 7094
If, for any taxable year, the foregoing apportionment formula 7095

produces an amount less than zero, the taxpayer shall not be 7096
entitled to a refund with respect to that taxable year of any 7097
amounts other than amounts the taxpayer has paid in estimated 7098
taxes for the taxable year and any overpayment from a previous 7099
taxable year credited towards the taxable year for which the 7100
foregoing apportionment formula produces an amount less than zero. 7101

(B) As used in division (A) of this section, "sales made in a 7102
municipal corporation" mean: 7103

(1) All sales of tangible personal property delivered within 7104
such municipal corporation regardless of where title passes if 7105
shipped or delivered from a stock of goods within such municipal 7106
corporation; 7107

(2) All sales of tangible personal property delivered within 7108
such municipal corporation regardless of where title passes even 7109
though transported from a point outside such municipal corporation 7110
if the taxpayer is regularly engaged through its own employees in 7111
the solicitation or promotion of sales within such municipal 7112
corporation and the sales result from such solicitation or 7113
promotion; 7114

(3) All sales of tangible personal property shipped from a 7115
place within such municipal corporation to purchasers outside such 7116
municipal corporation regardless of where title passes if the 7117
taxpayer is not, through its own employees, regularly engaged in 7118
the solicitation or promotion of sales at the place where delivery 7119
is made. 7120

Sec. 718.021. (A) As used in this section: 7121

(1) "Apportioned net income" means the amount derived from 7122
the application of the apportionment formula described in section 7123
718.02 of the Revised Code for taxable years beginning on and 7124
after January 1, 1999. 7125

(2) "Loss-generating taxable year" means a taxable year in which the taxpayer has negative apportioned net income. 7126
7127

(3) "Negative apportioned net income" means apportioned net income that is less than zero, except that if, for any taxable year, a taxpayer was not subject to the income tax imposed by a municipal corporation or was exempt from that tax, then the taxpayer's negative apportioned net income with respect to that municipal corporation is zero for that taxable year. 7128
7129
7130
7131
7132
7133

(4) "Positive apportioned net income" means apportioned net income greater than zero. 7134
7135

(B)(1) For taxable years beginning on or after January 1, 2004, if a taxpayer has negative apportioned net income for a taxable year with respect to a municipal income tax, then for each of the next five ensuing taxable years, the taxpayer may reduce any positive apportioned net income with respect to the municipal corporation in which the negative apportioned net income was generated by the lesser of: 7136
7137
7138
7139
7140
7141
7142

(a) The positive apportioned net income for that ensuing taxable year; or 7143
7144

(b) The absolute value of the negative apportioned net income attributable to the loss-generating taxable year reduced by any amount the taxpayer was allowed to deduct under this section in any of the previous taxable years. 7145
7146
7147
7148

(2) If, during a period of five consecutive taxable years, a taxpayer has negative apportioned net income in more than one taxable year, the negative apportioned net income generated in the earliest of those taxable years shall be the first negative apportioned net income deducted under this section. 7149
7150
7151
7152
7153

(C) Nothing in this section shall be construed as allowing any negative apportioned net income for a taxable year to be 7154
7155

deducted more than once in any subsequent taxable year. 7156

(D) Nothing in this section shall be construed as allowing 7157
any negative apportioned net income for a taxable year to be 7158
deducted in any subsequent taxable year beginning more than five 7159
years after the beginning of the loss-generating taxable year. 7160

Sec. 718.03. As used in this section, "other payer" means any 7161
person, other than an individual's employer or the employer's 7162
agent, that pays an individual any item included in the taxable 7163
income of the individual, ~~other than the individual's employer or~~ 7164
~~that employer's agent.~~ 7165

~~(A) Beginning January~~ July 1, 2001 2003, a municipal 7166
corporation shall not require any nonresident employer, agent of 7167
such an employer, or other payer that is not situated in the 7168
municipal corporation to deduct and withhold taxes from the 7169
taxable income of an individual unless and until the total amount 7170
of tax required to be deducted and withheld for the municipal 7171
corporation on account of all of the employer's employees or all 7172
of the other payer's payees exceeds one hundred fifty dollars for 7173
a the calendar year ~~beginning on or after that date.~~ 7174

~~If the total amount of tax required to be deducted and~~ 7175
~~withheld on account of all of the nonresident employer's employees~~ 7176
~~or all of the other payer's payees exceeds one hundred fifty~~ 7177
~~dollars for a calendar year beginning on or after January 1, 2001,~~ 7178
~~the municipal corporation may require the employer, agent, or~~ 7179
~~other payer to deduct and withhold taxes in each ensuing year even~~ 7180
~~if the amount required to be deducted and withheld in each of~~ 7181
~~those ensuing years is one hundred fifty dollars or less, except~~ 7182
~~as otherwise provided in division (B) of this section.~~ 7183

~~(B) If a nonresident employer, agent of such an employer, or~~ 7184
~~other payer that is not situated in the municipal corporation is~~ 7185
~~required to deduct and withhold taxes for an ensuing year under~~ 7186

~~division (A) of this section, and the total amount of tax required 7187
to be deducted and withheld under that division in each of three 7188
consecutive ensuing years is one hundred fifty dollars or less, 7189
the municipal corporation shall not require the employer, agent, 7190
or other payer to deduct and withhold taxes in any year following 7191
the last of those consecutive years unless the amount required to 7192
be deducted and withheld in any such following year exceeds one 7193
hundred fifty dollars. 7194~~

Sec. 718.031. (A) As used in this section, "qualifying wages" 7195
means wages, as defined in section 3121 of the Internal Revenue 7196
Code, adjusted as follows: 7197

(1) Deduct any amount included in wages to the extent the 7198
amount constitutes compensation attributable to a nonqualified 7199
deferred compensation plan or program described in section 7200
3121(v)(2)(C) of the Internal Revenue Code and is not included in 7201
any individual's federal gross income. 7202

(2) Add any amount not included in wages to the extent the 7203
amount constitutes compensation attributable to a nonqualified 7204
deferred compensation plan or program described in section 7205
3121(v)(2)(C) of the Internal Revenue Code if the amount is 7206
included in any individual's federal gross income, but only to the 7207
extent the municipal corporation did not impose its tax on the 7208
nonqualified deferred compensation at the time the compensation 7209
was deferred. Division (A)(2) of this section applies only to the 7210
extent that division (F)(11) of section 718.01 of the Revised Code 7211
does not prohibit taxation of such amount by the municipal 7212
corporation. For purposes of determining the applicability of 7213
division (F)(11) of section 718.01 of the Revised Code, any 7214
employer or any agent of any employer or any other payer, as 7215
defined in section 718.03 of the Revised Code, may rely on an 7216
affidavit or other sworn statement, submitted in good faith by an 7217

employee or previous employee, setting forth the employee's 7218
residency status. 7219

(3) Add any amount not included in wages to the extent the 7220
amount has been directly or indirectly paid to or for the benefit 7221
of any employee, payee, or former employee and is excluded from 7222
the employee's, payee's, or former employee's federal gross income 7223
under section 125 of the Internal Revenue Code. 7224

(B) For taxable years beginning after 2003, no municipal 7225
corporation shall require any employer or any agent of any 7226
employer or any other payer, as defined in section 718.03 of the 7227
Revised Code, to withhold tax from any compensation other than 7228
qualifying wages directly or indirectly paid to or for the benefit 7229
of any employee or payee or former employee. Nothing in this 7230
section prohibits an employer from withholding amounts on a basis 7231
greater than qualifying wages. 7232

Sec. 718.05. (A) As used in this section: 7233

(1) "Generic form" means an electronic or paper form designed 7234
for reporting estimated municipal income taxes and annual 7235
municipal income tax liability or for filing a refund claim that 7236
is not prescribed by a particular municipal corporation for the 7237
reporting of that municipal corporation's tax on income. 7238

(2) "Return preparer" means any person other than a taxpayer 7239
that is authorized by a taxpayer to complete or file an income tax 7240
return, report, or other document for or on behalf of the 7241
taxpayer. 7242

(B) A municipal corporation shall not require a taxpayer to 7243
file an annual income tax return or report prior to the filing 7244
date for the corresponding tax reporting period as prescribed for 7245
such a taxpayer under the Internal Revenue Code. For taxable years 7246
beginning after 2003, except as otherwise provided in section 7247

718.051 of the Revised Code and division (D) of this section, a 7248
municipal corporation shall not require a taxpayer to file an 7249
annual income tax return or report on any date other than the 7250
filing date for the corresponding tax reporting period as 7251
prescribed for such a taxpayer under the Internal Revenue Code. 7252

(C) On and after January 1, 2001, any municipal corporation 7253
that requires taxpayers to file income tax returns, reports, or 7254
other documents shall accept for filing a generic form of such a 7255
return, report, or document if the generic form, once completed 7256
and filed, contains all of the information required to be 7257
submitted with the municipal corporation's prescribed returns, 7258
reports, or documents, and if the taxpayer or return preparer 7259
filing the generic form otherwise complies with rules or 7260
ordinances of the municipal corporation governing the filing of 7261
returns, reports, or documents. 7262

(D) ~~Beginning~~ Except as otherwise provided in section 718.051 7263
of the Revised Code, beginning January 1, 2001, any taxpayer that 7264
has requested an extension for filing a federal income tax return 7265
may request an extension for the filing of a municipal income tax 7266
return. The taxpayer shall make the request by filing a copy of 7267
the taxpayer's request for a federal filing extension with the 7268
individual or office charged with the administration of the 7269
municipal income tax. The request for extension shall be filed not 7270
later than the last day for filing the municipal income tax return 7271
as prescribed by ordinance or rule of the municipal corporation. A 7272
municipal corporation shall grant such a request for extension 7273
filed before January 1, 2004, for a period not less than the 7274
period of the federal extension request. For taxable years 7275
beginning after 2003, the extended due date of the municipal 7276
income tax return shall be the last day of the month to which the 7277
due date of the federal income tax return has been extended. A 7278
municipal corporation may deny a taxpayer's request for extension 7279

only if the taxpayer fails to timely file the request, fails to 7280
file a copy of the request for the federal extension, owes the 7281
municipal corporation any delinquent income tax or any penalty, 7282
interest, assessment, or other charge for the late payment or 7283
nonpayment of income tax, or has failed to file any required 7284
income tax return, report, or other related document for a prior 7285
tax period. The granting of an extension for filing a municipal 7286
corporation income tax return does not extend the last date for 7287
paying the tax without penalty unless the municipal corporation 7288
grants an extension of that date. 7289

Sec. 718.051. (A) As used in this section, "Ohio business 7290
gateway" means the online computer network system, initially 7291
created by the department of administrative services under section 7292
125.30 of the Revised Code, that allows private businesses to 7293
electronically file business reply forms with state agencies. 7294

(B) Notwithstanding section 718.05 of the Revised Code, on 7295
and after January 1, 2005, any taxpayer that is subject to any 7296
municipal corporation's tax on the net profit from a business or 7297
profession and has received an extension to file the federal 7298
income tax return shall not be required to notify the municipal 7299
corporation of the federal extension and shall not be required to 7300
file any municipal income tax return until the last day of the 7301
month to which the due date for filing the federal return has been 7302
extended, provided that, on or before the date for filing the 7303
municipal income tax return, the person notifies the tax 7304
commissioner of the federal extension through the Ohio business 7305
gateway or any successor electronic filing and payment system. 7306

(C) For taxable years beginning on or after January 1, 2005, 7307
a taxpayer subject to any municipal corporation's tax on the net 7308
profit from a business or profession may file any municipal income 7309
tax return or estimated municipal income return, and may make 7310

payment of amounts shown to be due on such returns, by using the 7311
Ohio business gateway or any successor electronic filing and 7312
payment system. 7313

(D)(1) As used in this division, "qualifying wages" has the 7314
same meaning as in section 718.031 of the Revised Code. 7315

(2) Any employer may report the amount of municipal income 7316
tax withheld from qualifying wages paid on or after January 1, 7317
2007, and may make remittance of such amounts, by using the Ohio 7318
business gateway or any successor electronic filing and payment 7319
system. 7320

(E) Nothing in this section shall be construed as affecting 7321
the due dates for filing income tax returns or employer 7322
withholding tax returns or for paying any amounts shown to be due 7323
on such returns. 7324

(F) Nothing in this section requires this state to continue 7325
to make available the Ohio business gateway or to make available 7326
any successor electronic filing and payment system. 7327

Sec. 718.11. (A) If any employer or taxpayer required to file 7328
a tax return for a tax subject to this chapter fails to file the 7329
return within the time prescribed, files an incorrect return, or 7330
fails to remit the full amount of the tax due for the period 7331
covered by the return, the tax administrator may make an 7332
assessment against the employer or taxpayer for any deficiency for 7333
the period for which the return or tax is due, based upon any 7334
information in the administrator's possession. 7335

The tax administrator shall not make or issue an assessment 7336
against an employer or taxpayer more than three years after the 7337
final date the return subject to assessment was required to be 7338
filed or the date the return was filed, whichever is later. The 7339
time limit may be extended if both the employer or taxpayer and 7340

the administrator consent in writing to the extension. An 7341
extension shall extend the three-year time limit in section 718.12 7342
of the Revised Code for the same period of time. There is no bar 7343
or limit to an assessment against an employer or taxpayer that 7344
fails to file a return subject to assessment as required by this 7345
chapter, or that files a fraudulent return. The administrator 7346
shall give the employer or taxpayer assessed written notice of the 7347
assessment by personal service or mail. Notice sent by mail shall 7348
be sent to the address shown on the tax return or other 7349
documentation unless the employer or taxpayer notifies the 7350
administrator of a different address. With the notice, the 7351
administrator shall provide instructions on how to petition for 7352
reassessment and request a hearing on the petition. 7353

(B) Unless the employer or taxpayer assessed files with the 7354
tax administrator within sixty days from the mailing of the 7355
assessment a written petition for reassessment signed by the 7356
employer or taxpayer or by the authorized agent of the employer or 7357
taxpayer assessed having knowledge of the facts, the assessment 7358
becomes final, and the amount of the assessment is due and payable 7359
from the employer or taxpayer to the treasurer of the municipal 7360
corporation. The petition shall indicate the employer's or 7361
taxpayer's objections, but additional objections may be raised in 7362
writing if received by the administrator prior to the date shown 7363
on the final determination. An assessment sent by mail which is 7364
returned undeliverable or sent to a location other than that of 7365
the employer or taxpayer shall not be considered to be "the 7366
mailing of the assessment" until the assessment is actually mailed 7367
to the location of the employer or taxpayer. 7368

(C) If the petitioner requests a hearing, the tax 7369
administrator shall assign a time and place for the hearing on the 7370
petition and shall notify the petitioner of the time and place of 7371
the hearing. The administrator may continue the hearing from time 7372

to time if necessary. 7373

The tax administrator shall make such corrections to the 7374
assessment as the administrator finds proper. The administrator 7375
shall serve a copy of the final determination on the petitioner by 7376
personal service or by certified mail, and the administrator's 7377
determination in the matter shall be final, subject to appeal as 7378
provided for in section 5717.011 of the Revised Code. Only 7379
objections decided on the merits by the board of tax appeals or a 7380
court shall be given collateral estoppel or res judicata effect in 7381
considering an application for refund of amounts paid pursuant to 7382
the assessment. 7383

(D) After an assessment becomes final, if any portion of the 7384
assessment remains unpaid, including accrued interest, a certified 7385
copy of the tax administrator's entry making the assessment final 7386
may be filed in the office of the clerk of the court of common 7387
pleas in the county where the municipal corporation is primarily 7388
located. 7389

Immediately upon the filing of the entry, the clerk shall 7390
enter a judgment against the employer or taxpayer assessed in the 7391
amount shown on the entry. The judgment may be filed by the clerk 7392
in a loose-leaf book entitled "special judgments for municipal 7393
corporation of income taxes" and shall have the same effect as 7394
other judgments. Execution shall issue upon the judgment upon the 7395
request of the tax administrator, and all laws applicable to sales 7396
on execution shall apply to sales made under the judgment. 7397

The portion of an assessment not paid within sixty days after 7398
the day the assessment was issued shall bear additional interest 7399
at the rate per annum prescribed by section 5703.47 of the Revised 7400
Code from the day the administrator issues the assessment until 7401
the assessment is paid. Interest shall be paid in the same manner 7402
as the tax and may be collected by issuing an assessment under 7403
this section. 7404

(E) All money collected under this section shall be 7405
considered revenue arising from the tax imposed by the municipal 7406
corporation. 7407

(F) If the tax administrator believes that collection of the 7408
tax will be jeopardized unless proceedings to collect or secure 7409
collection of the tax are instituted without delay, the 7410
administrator may issue a jeopardy assessment against the employer 7411
or taxpayer liable for the tax. Immediately upon the issuance of 7412
the jeopardy assessment, the administrator shall file an entry 7413
with the clerk of the court of common pleas in the manner 7414
prescribed by division (D) of this section. Notice of the jeopardy 7415
assessment shall be served on the employer or taxpayer assessed or 7416
the taxpayer's legal representative by personal service or 7417
certified mail within five days of the filing of the entry with 7418
the clerk. The total amount assessed is immediately due and 7419
payable, unless the employer or taxpayer assessed files a petition 7420
for reassessment in accordance with division (B) of this section 7421
and provides security in a form satisfactory to the administrator 7422
and in an amount sufficient to satisfy the unpaid balance of the 7423
assessment. Full or partial payment of the assessment does not 7424
prejudice the administrator's consideration of the petition for 7425
reassessment. 7426

(G) Notwithstanding the fact that a petition for reassessment 7427
is pending, the employer or taxpayer may pay all or a portion of 7428
the assessment that is the subject of the petition. The acceptance 7429
of a payment by the treasurer of the municipal corporation does 7430
not prejudice any claim for refund upon final determination of the 7431
petition. 7432

If upon final determination of the petition an error in the 7433
assessment is corrected by the tax administrator, upon petition so 7434
filed or pursuant to a decision of the board of tax appeals or any 7435
court to which the determination or decision has been appealed, so 7436

that the amount due from the employer or taxpayer under the 7437
corrected assessment is less than the portion paid, there shall be 7438
issued to the employer or taxpayer, its assignees, or legal 7439
representative a refund in the amount of the overpayment as 7440
provided by section 718.12 of the Revised Code, with interest on 7441
that amount as provided in that section. 7442

(H) As used in this section: 7443

(1) "Employer" includes a responsible party if the municipal 7444
corporation imposes such liability. 7445

(2) "Tax" includes amounts an employer is required to 7446
withhold. 7447

Sec. 718.111. Except as provided in this section, no 7448
municipal corporation shall levy, assess, or collect any civil 7449
penalties for a tax subject to assessment under section 718.11 of 7450
the Revised Code. 7451

(A) The following penalties shall apply to employers and 7452
taxpayers required to file a tax return for a tax subject to this 7453
chapter: 7454

(1) If an employer or a taxpayer required to file a return or 7455
remit tax fails to make and file a return within the time 7456
prescribed, including any extensions of time granted by the tax 7457
administrator, the administrator may impose a penalty not 7458
exceeding the greater of fifty dollars per month or fraction of a 7459
month, not to exceed five hundred dollars, or five per cent per 7460
month or fraction of a month, not to exceed fifty per cent, of the 7461
tax required to be shown on the return, for each month or fraction 7462
of a month elapsing between the due date, including extensions of 7463
the due date, and the day on which the return is filed. 7464

(2) If an employer or a taxpayer fails to pay any amount of 7465
estimated tax required to be paid, subject to section 718.08 of 7466

the Revised Code, by the dates prescribed for payment, the tax administrator may impose a penalty of up to twice the interest owed for the delinquent payment. 7467
7468
7469

(3) If an employer or a taxpayer files what purports to be a return required by a municipal corporation to report income that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of the tax, a penalty of up to five hundred dollars may be imposed. 7470
7471
7472
7473
7474
7475
7476
7477
7478

(4) If an employer or a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the return. 7479
7480
7481
7482
7483

(5) If any person makes a false or fraudulent claim for a refund under section 718.12 of the Revised Code, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. Any penalty imposed under division (A)(5) of this section, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 718.11 of the Revised Code without regard to any time limitation for the assessment imposed by division (A) of that section. 7484
7485
7486
7487
7488
7489
7490
7491
7492

(B) For the purposes of this section, the tax required to be shown on the return shall be reduced by the amount of any part of the tax paid on or before the date, including extensions of the date, prescribed for filing the return. 7493
7494
7495
7496

(C) Each penalty imposed under this section shall be in 7497

addition to any other penalty described in this section. All or 7498
part of any penalty imposed under this section may be abated by 7499
the tax administrator. The administrator may adopt rules governing 7500
the imposition and abatement of such penalties. 7501

(D) All amounts collected under this section from an employer 7502
or a taxpayer shall be considered as revenue arising from the tax 7503
imposed by the municipal corporation. 7504

(E) The interest rate for any interest charges levied by a 7505
municipal corporation for the underpayment of tax shall be based 7506
upon the rate per annum prescribed by section 5703.47 of the 7507
Revised Code. 7508

Sec. 718.112. (A) If any of the facts, figures, computations, 7509
or attachments required in a taxpayer's annual return to determine 7510
the tax charged by the municipal corporation must be altered as 7511
the result of an adjustment to the taxpayer's federal income tax 7512
return, whether initiated by the taxpayer or the internal revenue 7513
service, and such alteration affects the taxpayer's tax liability, 7514
the taxpayer shall file an amended return with the tax 7515
administrator in such form as the administrator requires. The 7516
amended return shall be filed not later than sixty days after the 7517
adjustment has been agreed to or finally determined for federal 7518
income tax purposes or any federal income tax deficiency or 7519
refund, or the abatement or credit resulting therefrom, has been 7520
assessed or paid, whichever occurs first. 7521

(B) In the case of an underpayment, the amended return shall 7523
be accompanied by payment of any additional tax due together with 7524
interest thereon. If the tax shown to be due is one dollar or 7525
less, such amount need not accompany the amended return. An 7526
amended return required by this section is a return subject to 7527
assessment under section 718.11 of the Revised Code for the 7528

purpose of assessing any additional tax due under this section, 7529
together with any applicable penalty and interest. An amended 7530
return does not reopen facts, figures, computations, or 7531
attachments from a previously filed return no longer subject to 7532
assessment that are not affected, either directly or indirectly, 7533
by the adjustment to the taxpayer's federal income tax return. 7534

(C) In the case of an overpayment, an application for refund 7535
may be filed under this division within the sixty-day period 7536
prescribed for filing the amended return even if it is filed 7537
beyond the period prescribed in section 718.12 of the Revised Code 7538
if it otherwise conforms to the requirements of that section. An 7539
application filed under this division shall claim refund of 7540
overpayments resulting from alterations to only those facts, 7541
figures, computations, or attachments required in the taxpayer's 7542
annual return that are affected, either directly or indirectly, by 7543
the adjustment to the taxpayer's federal income tax return unless 7544
it is also filed within the time prescribed in section 718.12 of 7545
the Revised Code. The application does not reopen facts, figures, 7546
computations, or attachments that are not affected, either 7547
directly or indirectly, by the adjustment to the taxpayer's 7548
federal income tax return. 7549

Sec. 718.12. (A) An application to refund to an employer or a 7550
taxpayer the amount of taxes paid on any illegal, erroneous, or 7551
excessive payment of tax to a municipal corporation, including 7552
assessments, shall be filed with the tax administrator of the 7553
municipal corporation within three years after the date of the 7554
illegal, erroneous, or excessive payment of the tax, or within any 7555
additional period allowed by division (A) of section 718.11 of the 7556
Revised Code. The application shall be filed in the form 7557
prescribed by the tax administrator or by using a generic form as 7558
allowed under section 718.05 of the Revised Code. 7559

(B) Upon the filing of a refund application, the 7560
administrator shall determine the amount of refund to which the 7561
applicant is entitled. If the amount is not less than that 7562
claimed, the administrator shall issue a refund. If the amount is 7563
less than that claimed, the administrator shall give the applicant 7564
notice by ordinary mail of the amount approved for refund. The 7565
notice shall be sent to the address shown on the application for a 7566
refund unless the applicant notifies the administrator of a 7567
different address. The applicant shall have sixty days from the 7568
date the administrator mails the notice to provide additional 7569
information to the administrator or to request a hearing, or both. 7570
Nothing in this section prohibits the administrator from refunding 7571
the applicant the approved amount prior to the expiration of the 7572
sixty-day period. 7573

(C) If the applicant neither requests a hearing nor provides 7574
additional information to the tax administrator within the time 7575
prescribed by division (B) of this section, the administrator 7576
shall take no further action, and the determination of the refund 7577
amount denied is final and is not subject to appeal under section 7578
5717.011 of the Revised Code. 7579

(D)(1) If the applicant requests a hearing within the time 7580
prescribed by division (B) of this section, the tax administrator 7581
shall assign a time and place for the hearing and shall notify the 7582
applicant of such time and place. The administrator may continue 7583
the hearing from time to time as necessary. After the hearing, the 7584
administrator may make such adjustments to the refund as the 7585
administrator finds proper and shall issue a final determination 7586
thereon. 7587

(2) If the applicant does not request a hearing, but provides 7588
additional information, within the time prescribed by division (B) 7589
of this section, the tax administrator shall review the 7590
information, make such adjustments to the refund as the 7591

administrator finds proper, and shall issue a final determination 7592
thereon. 7593

(3) The administrator shall serve a copy of the final 7594
determination made under division (D)(1) or (2) of this section on 7595
the applicant by personal service or by certified mail, and the 7596
decision is final, subject to appeal under section 5717.011 of the 7597
Revised Code. 7598

(4) The administrator shall refund any additional tax found 7599
to be due the taxpayer under division (D)(1) or (2) of this 7600
section. 7601

(E) Upon the written request of a taxpayer, the tax 7602
administrator may credit the amount of the refund against the 7603
taxpayer's estimated tax payments to the municipal corporation for 7604
an ensuing taxable year. The administrator may apply any refund 7605
due under this section to any taxes or fees owed to the municipal 7606
corporation as partial satisfaction of the debt owed to the 7607
municipal corporation if the refund is for less than the debt or 7608
for full satisfaction of the debt owed to the municipal 7609
corporation if the refund equals or exceeds the debt. If the 7610
refund is greater than the debt, the amount remaining after 7611
satisfaction of the debt shall be refunded. The preceding two 7612
sentences apply only to debts that have become final. 7613

(F) Interest shall be allowed and paid on any overpayment by 7614
a taxpayer of tax from the date of the overpayment until the date 7615
of the refund of the overpayment, except that if any overpayment 7616
is refunded within ninety days after the final filing date of the 7617
annual return or ninety days after the complete return is filed, 7618
whichever is later, no interest shall be allowed on the refunded 7619
overpayment. For purposes of computing the payment of interest on 7620
overpayments, no amount of tax for any taxable year shall be 7621
treated as having been paid before the date on which the tax 7622
return for that year was due without regard to any extension of 7623

time for filing that return. 7624

(G) If the amount of refund the applicant is entitled to 7625
under this section is for less than one dollar, the tax 7626
administrator is not required to issue the refund. 7627

Sec. 901.17. ~~(A)~~ The division of markets ~~shall~~ may do all of 7628
the following: 7629

~~(1)~~(A) Investigate the cost of production and marketing in 7630
all its phases; 7631

~~(2)~~(B) Gather and disseminate information concerning supply, 7632
demand, prevailing prices, and commercial movements, including 7633
common and cold storage of food products, and maintain market news 7634
service for disseminating such information; 7635

~~(3)~~(C) Promote, assist, and encourage the organization and 7636
operation of cooperative and other associations and organizations 7637
for improving the relations and services among producers, 7638
distributors, and consumers of food products; 7639

~~(4)~~(D) Investigate the practice, methods, and any specific 7640
transaction of commission merchants and others who receive, 7641
solicit, buy, or handle on commission or otherwise, food products; 7642

~~(5)~~(E) Act as mediator or arbitrator, when invited, in any 7643
controversy or issue that arises between producers and 7644
distributors and that affects the interest of the consumer; 7645

~~(6)~~(F) Act on behalf of the consumers in conserving and 7646
protecting their interests in every practicable way against 7647
excessive prices; 7648

~~(7)~~(G) Act as market adviser for producers and distributors, 7649
assisting them in economical and efficient distribution of good 7650
products at fair prices; 7651

~~(8)~~(H) Encourage the establishment of retail municipal 7652

markets and develop direct dealing between producers and 7653
consumers; 7654

~~(9)(I) Encourage the consumption of Ohio-grown products 7655
within the state, nationally, and internationally, and inspect and 7656
determine the grade and condition of farm produce, both at 7657
collecting and receiving centers within the state; 7658~~

~~(10)(J) Take such means and use such powers, relative to 7659
shipment, transportation, and storage of foodstuffs of any kind, 7660
as are necessary, advisable, or desirable in case of an emergency 7661
creating or threatening to create a scarcity of food within the 7662
state; 7663~~

~~(K) Participate in trade missions between states and foreign 7664
countries in order to encourage the sale and promotion of 7665
Ohio-grown products. 7666~~

~~(B)(1) The director of agriculture shall adopt and may amend 7667
schedules of fees to be charged for inspecting farm produce at 7668
collecting and receiving centers or such other services as may be 7669
rendered under this section. All such fees shall be made with a 7670
view to the minimum cost and to make this branch of the department 7671
of agriculture self sustaining. 7672~~

~~The fees shall be deposited in the state treasury and 7673
credited to the inspection fund, which is hereby created, for use 7674
in carrying out the purposes of this section. All investment 7675
earnings of the inspection fund shall be credited to the fund. If, 7676
in any year, the balance in the inspection fund is not sufficient 7677
to meet the expenses incurred pursuant to this section, the 7678
deficit shall be paid from funds appropriated for the use of the 7679
department. 7680~~

~~(2) The director may adopt a schedule of fees to be charged 7681
for inspecting any agricultural product for the purposes of the 7682
issuance of an export certificate, as may be required by the 7683~~

~~United States department of agriculture or foreign purchasers.~~ 7684
~~Such fees shall be credited to the general revenue fund.~~ 7685

Sec. 901.21. (A) As used in this section and section 901.22 7686
of the Revised Code: 7687

(1) "Agricultural easement" has the same meaning as in 7688
section 5301.67 of the Revised Code. 7689

(2) "Agriculture" means those activities occurring on land 7690
devoted exclusively to agricultural use, as defined in section 7691
5713.30 of the Revised Code, or on land that constitutes a 7692
homestead. 7693

(3) "Homestead" means the portion of a farm on which is 7694
located a dwelling house, yard, or outbuildings such as a barn or 7695
garage. 7696

(B) The director of agriculture may acquire real property 7697
used predominantly in agriculture and agricultural easements by 7698
gift, devise, or bequest if, at the time an easement is granted, 7699
such an easement is on land that is valued for purposes of real 7700
property taxation at its current value for agricultural use under 7701
section 5713.31 of the Revised Code or that constitutes a 7702
homestead. Any terms may be included in an agricultural easement 7703
so acquired that are necessary or appropriate to preserve on 7704
behalf of the grantor of the easement the favorable tax 7705
consequences of the gift, devise, or bequest under the "Internal 7706
Revenue Act of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 7707
The director, by any such means or by purchase or lease, may 7708
acquire, or acquire the use of, stationary personal property or 7709
equipment that is located on land acquired in fee by the director 7710
under this section and that is necessary or appropriate for the 7711
use of the land predominantly in agriculture. 7712

(C) The director may do all things necessary or appropriate 7713

to retain the use of real property acquired in fee under division 7714
(B) of this section predominantly in agriculture, including, 7715
without limitation, performing any of the activities described in 7716
division (A)(1) or (2) of section 5713.30 of the Revised Code or 7717
entering into contracts to lease or rent the real property so 7718
acquired to persons or governmental entities that will use the 7719
land predominantly in agriculture. 7720

(D)(1) When the director considers it to be necessary or 7721
appropriate, the director may sell real property acquired in fee, 7722
and stationary personal property or equipment acquired by gift, 7723
devise, bequest, or purchase, under division (B) of this section 7724
on such terms as the director considers to be advantageous to this 7725
state. 7726

(2) An agricultural easement acquired under division (B) of 7727
this section may be extinguished under the circumstances 7728
prescribed, and in accordance with the terms and conditions set 7729
forth, in the instrument conveying the agricultural easement. 7730

(E) There is hereby created in the state treasury the 7731
agricultural easement purchase fund. The fund shall consist of the 7732
proceeds received from the sale of real and personal property 7733
under division (D) of this section; moneys received due to the 7734
extinguishment of agricultural easements acquired by the director 7735
under division (B) of this section or section 5301.691 of the 7736
Revised Code; moneys received due to the extinguishment of 7737
agricultural easements purchased with the assistance of matching 7738
grants made under section 901.22 of the Revised Code; gifts, 7739
bequests, devises, and contributions received by the director for 7740
the purpose of acquiring agricultural easements; and grants 7741
received from public or private sources for the purpose of 7742
purchasing agricultural easements. The fund shall be administered 7743
by the director, and moneys in the fund shall be used by the 7744
director exclusively to purchase agricultural easements under 7745

division (A) of section 5301.691 of the Revised Code and provide 7746
matching grants under section 901.22 of the Revised Code to 7747
municipal corporations, counties, townships, and charitable 7748
organizations for the purchase of agricultural easements. Money in 7749
the fund shall be used only to purchase agricultural easements on 7750
land that is valued for purposes of real property taxation at its 7751
current value for agricultural use under section 5713.31 of the 7752
Revised Code or that constitutes a homestead when the easement is 7753
purchased. 7754

(F) There is hereby created in the state treasury the clean 7755
Ohio agricultural easement fund. Twelve and one-half per cent of 7756
net proceeds of obligations issued and sold pursuant to sections 7757
151.01 and 151.09 of the Revised Code shall be deposited into the 7758
fund. The fund shall be used by the director for the purposes of 7759
sections 901.21 and 901.22 and the provisions of sections 5301.67 7760
to 5301.70 of the Revised Code governing agricultural easements. 7761
Investment earnings of the fund shall be credited to the fund. ~~For~~ 7762
~~two years after the effective date of this amendment, investment~~ 7763
~~earnings credited to the fund and~~ and may be used to pay costs 7764
incurred by the director in administering those sections and 7765
provisions. 7766

(G) The term of an agricultural easement purchased wholly or 7767
in part with money from the clean Ohio agricultural easement fund 7768
or the agricultural easement purchase fund shall be perpetual and 7769
shall run with the land. 7770

Sec. 902.11. (A) Any real or personal property, or both, of 7771
an issuer ~~which~~ that is acquired, constructed, reconstructed, 7772
enlarged, improved, furnished, or equipped, or any combination 7773
thereof, and leased or subleased under authority of this chapter 7774
shall be subject to ad valorem, sales, use, and franchise taxes 7775
and to zoning, planning, and building regulations and fees, to the 7776

same extent and in the same manner as if the lessee-user or 7777
sublessee-user thereof, rather than the issuer, had acquired, 7778
constructed, reconstructed, enlarged, improved, furnished, or 7779
equipped, or any combination thereof, such real or personal 7780
property, and title thereto was in the name of such lessee-user or 7781
sublessee-user. 7782

The transfer of tangible personal property by lease or 7783
sublease under authority of this chapter is not a sale as used in 7784
Chapter 5739. of the Revised Code. The exemptions provided in 7785
divisions (B)(1) and ~~(14)~~(12) of section 5739.02 of the Revised 7786
Code shall not be applicable to purchases for a project under this 7787
chapter. 7788

An issuer shall be exempt from all taxes on its real or 7789
personal property, or both, which has been acquired, constructed, 7790
reconstructed, enlarged, improved, furnished, or equipped, or any 7791
combination thereof, under this chapter so long as such property 7792
is used by the issuer for purposes which would otherwise exempt 7793
such property; has ceased to be used by a former lessee-user or 7794
sublessee-user and is not occupied or used; or has been acquired 7795
by the issuer but development has not yet commenced. The exemption 7796
shall be effective as of the date the exempt use begins. All taxes 7797
on the exempt real or personal property for the year should be 7798
prorated and the taxes for the exempt portion of the year shall be 7799
remitted by the county auditor. 7800

(B) Bonds issued under this chapter, the transfer thereof, 7801
and the interest and other income from the bonds, including any 7802
profit made on the sale thereof, are free from taxation within the 7803
state. 7804

Sec. 921.151. The pesticide program fund is hereby created in 7805
the state treasury. ~~All~~ The portion of the money in the fund that 7806
is collected under this chapter shall be used to carry out the 7807

purposes of this chapter. The portion of the money in the fund 7808
that is collected under Chapter 927. of the Revised Code shall be 7809
used to carry out the purposes of that chapter, provided that the 7810
money that is collected under section 927.701 of the Revised Code 7811
shall be used to carry out the purposes of that section. The fund 7812
shall consist of fees collected under sections 921.01 to 921.15 7813
and section 927.69 of the Revised Code, money collected under 7814
section 927.701 of the Revised Code, and all fines, penalties, 7815
costs, and damages, except court costs, ~~which that~~ are collected 7816
by either the director of agriculture or the attorney general in 7817
consequence of any violation of sections 921.01 to 921.29 of the 7818
Revised Code. Not later than the thirtieth day of June of each 7819
year, the director of budget and management shall determine 7820
whether the amount credited to the pesticide program fund is in 7821
excess of the amount necessary to meet the expenses of the 7822
director of agriculture in administering this chapter and Chapter 7823
927. of the Revised Code and shall transfer any excess from the 7824
pesticide program fund to the general revenue fund. 7825

Sec. 927.69. To effect the purpose of sections 927.51 to 7826
927.74, ~~inclusive,~~ of the Revised Code, the director of 7827
agriculture, ~~or his~~ the director's authorized representative, may: 7828

(A) Make reasonable inspection of any premises in this state 7829
and any property therein or thereon; 7830

(B) Stop and inspect in a reasonable manner, any means of 7831
conveyance moving within this state upon probable cause to believe 7832
it contains or carries any pest, host, commodity, or other article 7833
~~which that~~ is subject to sections 927.51 to 927.72, ~~inclusive,~~ of 7834
the Revised Code; 7835

(C) Conduct inspections of agricultural products that are 7836
required by other states, the United States department of 7837
agriculture, other federal agencies, or foreign countries to 7838

determine whether the products are infested. If, upon making such 7839
an inspection, the director or the director's authorized 7840
representative determines that an agricultural product is not 7841
infested, the director or the director's authorized representative 7842
may issue a certificate, as required by other states, the United 7843
States department of agriculture, other federal agencies, or 7844
foreign countries, indicating that the product is not infested. 7845

The director may charge a fee for the inspection and may 7846
charge an additional fee for the issuance of a certificate. The 7847
fees shall be established in rules adopted under section 927.52 of 7848
the Revised Code and shall be deposited into the state treasury to 7849
the credit of the pesticide program fund created in Chapter 921. 7850
of the Revised Code. Money credited to the fund shall be used to 7851
pay the costs incurred by the department of agriculture in 7852
administering this chapter. 7853

Sec. 927.701. (A) As used in this section, "gypsy moth" means 7854
the live insect, Lymantria dispar, in any stage of development. 7855

(B) The director of agriculture may establish a voluntary 7857
gypsy moth suppression program under which a landowner may request 7858
that the department of agriculture have the landowner's property 7859
aerially sprayed to suppress the presence of gypsy moths in 7860
exchange for payment from the landowner of a portion of the cost 7861
of the spraying. To determine the amount of payment that is due 7862
from a landowner, the department first shall determine the 7863
projected cost per acre to the department of gypsy moth 7864
suppression activities for the year in which the landowner's 7865
request is made. The cost shall be calculated by determining the 7866
total expense of aerial spraying for gypsy moths to be incurred by 7867
the department in that year divided by the total number of acres 7868
proposed to be sprayed in that year. With respect to a landowner, 7869

the department shall multiply the cost per acre by the number of 7870
acres that the landowner requests to be sprayed. The department 7871
shall add to that amount any administrative costs that it incurs 7872
in billing the landowner and collecting payment. The amount that 7873
the landowner shall pay to the department shall not exceed fifty 7874
per cent of the resulting amount. 7875

(C) The director shall adopt rules under Chapter 119. of the 7876
Revised Code to establish procedures under which a landowner may 7877
make a request under division (B) of this section and to establish 7878
provisions governing agreements between the department and 7879
landowners concerning gypsy moth suppression together with any 7880
other provisions that the director considers appropriate to 7881
administer this section. 7882

(D) The director shall deposit all money collected under this 7883
section into the state treasury to the credit of the pesticide 7884
program fund created in Chapter 921. of the Revised Code. Money 7885
credited to the fund under this section shall be used for the 7886
suppression of gypsy moths in accordance with this section. 7887

Sec. 1309.109. (A) Except as otherwise provided in divisions 7888
(C) and (D) of this section, this chapter applies to the 7889
following: 7890

(1) A transaction, regardless of its form, that creates a 7891
security interest in personal property or fixtures by contract; 7892

(2) An agricultural lien; 7893

(3) A sale of accounts, chattel paper, payment intangibles, 7894
or promissory notes; 7895

(4) A consignment; 7896

(5) A security interest arising under section 1302.42 or 7897
1302.49, division (C) of section 1302.85, or division (E) of 7898
section 1310.54 of the Revised Code, as provided in section 7899

1309.110 of the Revised Code; and	7900
(6) A security interest arising under section 1304.20 or	7901
1305.18 of the Revised Code.	7902
(B) The application of this chapter to a security interest in	7903
a secured obligation is not affected by the fact that the	7904
obligation is itself secured by a transaction or interest to which	7905
this chapter does not apply.	7906
(C) This chapter does not apply to the extent that:	7907
(1) A statute, regulation, or treaty of the United States	7908
preempts this chapter; or	7909
(2) The rights of a transferee beneficiary or nominated	7910
person under a letter of credit are independent and superior under	7911
section 1305.13 of the Revised Code.	7912
(D) This chapter does not apply to <u>the following</u> :	7913
(1) A landlord's lien, other than an agricultural lien;	7914
(2)(a) A lien, not enumerated in division (D)(2) of this	7915
section and other than an agricultural lien, given by statute or	7916
other rule of law for services or materials, including any lien	7917
created under any provision of Chapter 926., sections 1311.55 to	7918
1311.57, sections 1311.71 to 1311.80, section 1701.66, or Chapter	7919
4585. of the Revised Code;	7920
(b) Notwithstanding division (D)(2)(a) of this section,	7921
section 1309.333 of the Revised Code applies with respect to	7922
priority of the lien.	7923
(3) An assignment of a claim for wages, salary, or other	7924
compensation of an employee;	7925
(4) A sale of accounts, chattel paper, payment intangibles,	7926
or promissory notes as part of a sale of the business out of which	7927
they arose;	7928

(5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes that is for the purpose of collection only;	7929 7930 7931
(6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;	7932 7933
(7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;	7934 7935 7936
(8) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but sections 1309.315 and 1309.322 of the Revised Code apply with respect to proceeds and priorities in proceeds;	7937 7938 7939 7940 7941 7942
(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;	7943 7944
(10) A right of recoupment or set-off, but:	7945
(a) Section 1309.340 of the Revised Code applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and	7946 7947 7948
(b) Section 1309.404 of the Revised Code applies with respect to defenses or claims of an account debtor.	7949 7950
(11) The creation or transfer of an interest in or lien on real property, including a lease or rents under a lease, except to the extent that provision is made for:	7951 7952 7953
(a) Liens on real property in sections 1309.203 and 1309.308 of the Revised Code;	7954 7955
(b) Fixtures in section 1309.334 of the Revised Code;	7956
(c) Fixture filings in sections 1309.501, 1309.502, 1309.512,	7957

1309.516, and 1309.519 of the Revised Code; and 7958

(d) Security agreements covering personal and real property 7959
in section 1309.604 of the Revised Code. 7960

(12) An assignment of a claim arising in tort, other than a 7961
commercial tort claim, but sections 1309.315 and 1309.322 of the 7962
Revised Code apply with respect to proceeds and priorities in 7963
proceeds; 7964

(13) An assignment of a deposit account in a consumer 7965
transaction, but sections 1309.315 and 1309.322 of the Revised 7966
Code apply with respect to proceeds and priorities in proceeds; or 7967

(14) A transfer by a government, state, or governmental unit. 7968

(E) The granting of a security interest in all or any part of 7969
a lottery prize award for consideration is subject to the 7970
prohibition of division ~~(A)(3)(C)~~ of section 3770.07 of the 7971
Revised Code. The sale, assignment, or other redirection of a 7972
lottery prize award for consideration is subject to the provisions 7973
of division ~~(A)(4)(D)~~ of section 3770.07 and sections 3770.10 to 7974
3770.14 of the Revised Code. 7975

Sec. 1321.21. All fees, charges, penalties, and forfeitures 7976
collected under Chapters 1321., 1322., 4712., 4727., and 4728., 7977
sections 1315.21 to 1315.30, ~~and~~ sections 1315.35 to 1315.44, and 7978
sections 1349.25 to 1349.37 of the Revised Code shall be paid to 7979
the superintendent of financial institutions and shall be 7980
deposited by the superintendent into the state treasury to the 7981
credit of the consumer finance fund, which is hereby created. The 7982
fund may be expended or obligated by the superintendent for the 7983
defrayment of the costs of administration of Chapters 1321., 7984
1322., 4712., 4727., and 4728., sections 1315.21 to 1315.30, ~~and~~ 7985
sections 1315.35 to 1315.44, and sections 1349.25 to 1349.37 of 7986
the Revised Code by the division of financial institutions. All 7987

actual and necessary expenses incurred by the superintendent, 7988
including any services rendered by the department of commerce for 7989
the division's administration of Chapters 1321., 1322., 4712., 7990
4727., and 4728., sections 1315.21 to 1315.30, ~~and~~ sections 7991
1315.35 to 1315.44, and sections 1349.25 to 1349.37 of the Revised 7992
Code, shall be paid from the fund. The fund shall be assessed a 7993
proportionate share of the administrative costs of the department 7994
and the division. The proportionate share of the administrative 7995
costs of the division of financial institutions shall be 7996
determined in accordance with procedures prescribed by the 7997
superintendent and approved by the director of budget and 7998
management. Such assessment shall be paid from the consumer 7999
finance fund to the division of administration fund or the 8000
financial institutions fund. 8001

Sec. 1333.99. (A) Whoever violates sections 1333.01 to 8002
1333.04 of the Revised Code is guilty of a minor misdemeanor. 8003

(B) Whoever violates section 1333.12 of the Revised Code is 8004
guilty of a misdemeanor of the fourth degree. 8005

(C) Whoever violates section 1333.36 of the Revised Code is 8006
guilty of a misdemeanor of the third degree. 8007

(D) A prosecuting attorney may file an action to restrain any 8008
person found in violation of section 1333.36 of the Revised Code. 8009
Upon the filing of such an action, the common pleas court may 8010
receive evidence of such violation and forthwith grant a temporary 8011
restraining order as may be prayed for, pending a hearing on the 8012
merits of said cause. 8013

(E) Whoever violates division (A)(1) of section 1333.52 or 8014
section 1333.81 of the Revised Code is guilty of a misdemeanor of 8015
the first degree. 8016

(F) Whoever violates division (A)(2) or (B) of section 8017

1333.52 ~~or division (F) or (H) of section 1333.96~~ of the Revised Code is guilty of a misdemeanor of the second degree. 8018
8019

(G) Except as otherwise provided in this division, whoever violates section 1333.92 of the Revised Code is guilty of a misdemeanor of the first degree. If the value of the compensation is five hundred dollars or more and less than five thousand dollars, whoever violates section 1333.92 of the Revised Code is guilty of a felony of the fifth degree. If the value of the compensation is five thousand dollars or more and less than one hundred thousand dollars, whoever violates section 1333.92 of the Revised Code is guilty of a felony of the fourth degree. If the value of the compensation is one hundred thousand dollars or more, whoever violates section 1333.92 of the Revised Code is guilty of a felony of the third degree. 8020
8021
8022
8023
8024
8025
8026
8027
8028
8029
8030
8031

~~(H) Whoever violates division (B), (C), or (I) of section 1333.96 of the Revised Code is guilty of a misdemeanor of the third degree.~~ 8032
8033
8034

~~(I) Any person not registered as a travel agency or tour promoter as provided in divisions (B) and (C) of section 1333.96 of the Revised Code who states that the person is so registered is guilty of a misdemeanor of the first degree.~~ 8035
8036
8037
8038

Sec. 1501.04. There is hereby created in the department of natural resources a recreation and resources commission composed of the ~~chairman~~ chairperson of the wildlife council created under section 1531.03 of the Revised Code, the ~~chairman~~ chairperson of the parks and recreation council created under section 1541.40 of the Revised Code, the ~~chairman~~ chairperson of the waterways safety council created under section 1547.73 of the Revised Code, the ~~chairman~~ chairperson of the technical advisory council on oil and gas created under section 1509.38 of the Revised Code, the chairman of the forestry advisory council created under section 8039
8040
8041
8042
8043
8044
8045
8046
8047
8048

1503.40 of the Revised Code, the ~~chairman~~ chairperson of the Ohio 8049
soil and water conservation commission created under section 8050
1515.02 of the Revised Code, the ~~chairman~~ chairperson of the Ohio 8051
natural areas council created under section 1517.03 of the Revised 8052
Code, the ~~chairman~~ chairperson of the Ohio water advisory council 8053
created under section 1521.031 of the Revised Code, the 8054
chairperson of the recycling and litter prevention advisory 8055
council created under section 1502.04 of the Revised Code, ~~the~~ 8056
~~chairperson of the civilian conservation advisory council created~~ 8057
~~under section 1553.10 of the Revised Code,~~ the ~~chairman~~ 8058
chairperson of the Ohio geology advisory council created under 8059
section 1505.11 of the Revised Code, and five members appointed by 8060
the governor with the advice and consent of the senate, not more 8061
than three of whom shall belong to the same political party. The 8062
director of natural resources shall be an ex officio member of the 8063
commission, with a voice in its deliberations, but without the 8064
power to vote. 8065

Terms of office of members of the commission appointed by the 8066
governor shall be for five years, commencing on the second day of 8067
February and ending on the first day of February. Each member 8068
shall hold office from the date of ~~his~~ appointment until the end 8069
of the term for which ~~he~~ the member was appointed. 8070

In the event of the death, removal, resignation, or 8071
incapacity of a member of the commission, the governor, with the 8072
advice and consent of the senate, shall appoint a successor who 8073
shall hold office for the remainder of the term for which ~~his~~ the 8074
member's predecessor was appointed. Any member shall continue in 8075
office subsequent to the expiration date of ~~his~~ the member's term 8076
until ~~his~~ the member's successor takes office, or until a period 8077
of sixty days has elapsed, whichever occurs first. 8078

The governor may remove any appointed member of the 8079
commission for misfeasance, nonfeasance, or malfeasance in office. 8080

The commission shall exercise no administrative function, but 8081
may: 8082

(A) Advise with and recommend to the director ~~of natural~~ 8083
~~resources~~ as to plans and programs for the management, 8084
development, utilization, and conservation of the natural 8085
resources of the state; 8086

(B) Advise with and recommend to the director as to methods 8087
of coordinating the work of the divisions of the department; 8088

(C) Consider and make recommendations upon any matter ~~which~~ 8089
~~that~~ the director may submit to it; 8090

(D) Submit to the governor biennially recommendations for 8091
amendments to the conservation laws of the state. 8092

~~Before~~ Each member of the commission, before entering upon 8093
the discharge of ~~his~~ the member's duties, ~~each member of the~~ 8094
~~commission~~ shall take and subscribe to an oath of office, which 8095
oath, in writing, shall be filed in the office of the secretary of 8096
state. 8097

The members of the commission shall serve without 8098
compensation, but shall be entitled to receive their actual and 8099
necessary expenses incurred in the performance of their official 8100
duties. 8101

The commission, by a majority vote of all its members, shall 8102
adopt and amend bylaws. 8103

To be eligible for appointment, a person shall be a citizen 8104
of the United States and an elector of the state and shall possess 8105
a knowledge of and have an interest in the natural resources of 8106
this state. 8107

The commission shall hold at least four regular quarterly 8108
meetings each year. Special meetings shall be held at such times 8109
as the bylaws of the commission provide. Notices of all meetings 8110

shall be given in such manner as the bylaws provide. The 8111
commission shall choose annually from among its members a ~~chairman~~ 8112
chairperson to preside over its meetings and a secretary to keep a 8113
record of its proceedings. A majority of the members of the 8114
commission constitutes a quorum. No advice shall be given or 8115
recommendation made without a majority of the members of the 8116
commission concurring therein. 8117

Sec. 1502.02. (A) There is hereby created in the department 8118
of natural resources the division of recycling and litter 8119
prevention to be headed by the chief of recycling and litter 8120
prevention. 8121

(B) There is hereby created in the state treasury the 8122
recycling and litter prevention fund, consisting of moneys 8123
distributed to it. 8124

(C) The chief of recycling and litter prevention shall do all 8125
of the following: 8126

(1) Use moneys credited to the fund exclusively for the 8127
purposes set forth in sections 1502.03, 1502.04, and 1502.05 of 8128
the Revised Code, with particular emphasis on programs relating to 8129
recycling; 8130

(2) Expend for administration of the division not more than 8131
ten per cent of any fiscal year's appropriation to the division, 8132
excluding the amount assessed to the division for direct and 8133
indirect central support charges; 8134

(3) Require recipients of grants under section 1502.05 of the 8135
Revised Code, as a condition of receiving and retaining them, to 8136
do all of the following: 8137

(a) Create a separate account for the grants ~~and any cash~~ 8138
~~donations received that qualify for the donor credit allowed by~~ 8139
~~section 5733.064 of the Revised Code;~~ 8140

(b) Make expenditures from the account exclusively for the purposes for which the grants were received;	8141 8142
(c) Use any auditing and accounting practices the chief considers necessary regarding the account;	8143 8144
(d) Report to the chief information regarding the amount and donor of cash donations received as described by section 5733.064 of the Revised Code;	8145 8146 8147
(e) Use grants received to supplement and not to replace any existing funding for such purposes.	8148 8149
(4) Report to the tax commissioner information the chief receives pursuant to division (C)(3)(d) of this section.	8150 8151
Sec. 1503.011. The chief of the division of forestry shall be responsible for the conservation and development of forests within this state. The chief shall be concerned with silvicultural practices, including the proper planting, growing, protecting, harvesting, and managing of trees for such purposes as watershed and soil protection, timber production and utilization, recreation, aesthetics, wildlife habitat development, and urban enhancement and for all benefits that forests provide.	8152 8153 8154 8155 8156 8157 8158 8159
The chief may do any or all of the following:	8160
(A) Provide rural forestry assistance to nonindustrial private forest landowners, including advice in tree planting, forest improvement, harvesting, and all aspects of conservation;	8161 8162 8163
(B) Provide urban forestry assistance to individuals, nonprofit organizations, and political subdivisions to manage their urban forest resource and develop comprehensive tree care programs;	8164 8165 8166 8167
(C) Provide wood utilization, marketing, and rural forestry development assistance to forest industries, political	8168 8169

subdivisions and agencies thereof, and state and federal agencies 8170
for the purpose of establishing and maintaining a viable, 8171
economically sound wood-based industry while expanding the forest 8172
resource of this state; 8173

(D) Provide forest pest protection assistance to forest 8174
landowners, political subdivisions and agencies thereof, and state 8175
and federal agencies on assessing and evaluating the health and 8176
vigor of the forest resource; 8177

(E) Provide technical assistance to landowners in developing 8178
forest windbreaks, filter strips, and other forest management 8179
practices that provide conservation benefits; 8180

(F) Provide awareness of and education concerning the 8181
programs provided for under divisions (A) to (E) of this section; 8182

(G) Enter into agreements with political subdivisions and 8183
agencies thereof, state and federal agencies, firefighting 8184
agencies and private fire companies, as those terms are defined in 8185
section 9.60 of the Revised Code, nonprofit organizations, and 8186
individuals to meet the needs of forestry assistance in this state 8187
and, in accordance with section 1503.01 of the Revised Code, 8188
develop and administer grant programs for any of those entities 8189
requesting assistance. The chief shall adopt, and may amend and 8190
rescind, rules in accordance with Chapter 119. of the Revised Code 8191
establishing such requirements and procedures as are necessary to 8192
implement this division. ~~As~~ As used in this ~~section~~ division, 8193
"nonprofit organization" has the same meaning as in section 8194
4141.01 of the Revised Code. 8195

(H) Perform inventories and assessments of the forest 8196
resource in this state; 8197

(I) Establish and administer a cost-share program, in 8198
accordance with rules adopted under section 1503.58 of the Revised 8199
Code, under which the state may share the costs to private forest 8200

landowners of enhancing the sustainability of the forest resource 8201
in this state; 8202

(J) Establish and administer a grant program, in accordance 8203
with rules adopted under section 1503.58 of the Revised Code, for 8204
the purpose of enhancing the sustainability and economic 8205
development of the forest resource of this state; 8206

(K) Enter into agreements with private entities to carry out 8207
the purposes of sections 1503.50 to 1503.58 of the Revised Code; 8208

(L) Upon the invitation or permission of a private property 8209
owner, enter private property or designate another person to do so 8210
on the chief's behalf to carry out the purposes of this section. 8211

Sec. 1503.05. (A) The chief of the division of forestry may 8212
sell timber and other forest products from the state forest and 8213
state forest nurseries whenever the chief considers such a sale 8214
desirable and, with the approval of the attorney general and the 8215
director of natural resources, may sell portions of the state 8216
forest lands when such a sale is advantageous to the state. 8217

(B) Except as otherwise provided in this section, a timber 8218
sale agreement shall not be executed unless the person or 8219
governmental entity bidding on the sale executes and files a 8220
surety bond conditioned on completion of the timber sale in 8221
accordance with the terms of the agreement in an amount equal to 8222
twenty-five per cent of the highest value cutting section. All 8223
bonds shall be given in a form prescribed by the chief and shall 8224
run to the state as obligee. 8225

The chief shall not approve any bond until it is personally 8226
signed and acknowledged by both principal and surety, or as to 8227
either by the attorney in fact thereof, with a certified copy of 8228
the power of attorney attached. The chief shall not approve the 8229
bond unless there is attached a certificate of the superintendent 8230

of insurance that the company is authorized to transact a fidelity 8231
and surety business in this state. 8232

In lieu of a bond, the bidder may deposit any of the 8233
following: 8234

(1) Cash in an amount equal to the amount of the bond; 8235

(2) United States government securities having a par value 8236
equal to or greater than the amount of the bond; 8237

(3) Negotiable certificates of deposit or irrevocable letters 8238
of credit issued by any bank organized or transacting business in 8239
this state having a par value equal to or greater than the amount 8240
of the bond. 8241

The cash or securities shall be deposited on the same terms 8242
as bonds. If one or more certificates of deposit are deposited in 8243
lieu of a bond, the chief shall require the bank that issued any 8244
of the certificates to pledge securities of the aggregate market 8245
value equal to the amount of the certificate or certificates that 8246
is in excess of the amount insured by the federal deposit 8247
insurance corporation. The securities to be pledged shall be those 8248
designated as eligible under section 135.18 of the Revised Code. 8249
The securities shall be security for the repayment of the 8250
certificate or certificates of deposit. 8251

Immediately upon a deposit of cash, securities, certificates 8252
of deposit, or letters of credit, the chief shall deliver them to 8253
the treasurer of state, who shall hold them in trust for the 8254
purposes for which they have been deposited. The treasurer of 8255
state is responsible for the safekeeping of the deposits. A bidder 8256
making a deposit of cash, securities, certificates of deposit, or 8257
letters of credit may withdraw and receive from the treasurer of 8258
state, on the written order of the chief, all or any portion of 8259
the cash, securities, certificates of deposit, or letters of 8260
credit upon depositing with the treasurer of state cash, other 8261

United States government securities, or other negotiable 8262
certificates of deposit or irrevocable letters of credit issued by 8263
any bank organized or transacting business in this state, equal in 8264
par value to the par value of the cash, securities, certificates 8265
of deposit, or letters of credit withdrawn. 8266

A bidder may demand and receive from the treasurer of state 8267
all interest or other income from any such securities or 8268
certificates as it becomes due. If securities so deposited with 8269
and in the possession of the treasurer of state mature or are 8270
called for payment by their issuer, the treasurer of state, at the 8271
request of the bidder who deposited them, shall convert the 8272
proceeds of the redemption or payment of the securities into other 8273
United States government securities, negotiable certificates of 8274
deposit, or cash as the bidder designates. 8275

When the chief finds that a person or governmental agency has 8276
failed to comply with the conditions of the person's or 8277
governmental agency's bond, the chief shall make a finding of that 8278
fact and declare the bond, cash, securities, certificates, or 8279
letters of credit forfeited. The chief thereupon shall certify the 8280
total forfeiture to the attorney general, who shall proceed to 8281
collect the amount of the bond, cash, securities, certificates, or 8282
letters of credit. 8283

In lieu of total forfeiture, the surety, at its option, may 8284
cause the timber sale to be completed or pay to the treasurer of 8285
state the cost thereof. 8286

All moneys collected as a result of forfeitures of bonds, 8287
cash, securities, certificates, and letters of credit under this 8288
section shall be credited to the state forest fund created in this 8289
section. 8290

(C) The chief may grant easements and leases on portions of 8291
the state forest lands and state forest nurseries under terms that 8292

are advantageous to the state, and the chief may grant mineral 8293
rights on a royalty basis on those lands and nurseries, with the 8294
approval of the attorney general and the director. 8295

(D) All moneys received from the sale of state forest lands, 8296
or in payment for easements or leases on or as rents from those 8297
lands or from state forest nurseries, shall be paid into the state 8298
treasury to the credit of the state forest fund, which is hereby 8299
created. All moneys received from the sale of standing timber 8300
taken from the state forest lands shall be deposited into the 8301
general revenue fund. All moneys received from the sale of forest 8302
products, other than standing timber, and minerals taken from the 8303
state forest lands and state forest nurseries, together with 8304
royalties from mineral rights, shall be paid into the state forest 8305
fund. In addition, all fees collected under section 1503.51 of the 8306
Revised Code related to the licensure of timber buyers, all 8307
sustainable forestry fees collected under section 1503.56 of the 8308
Revised Code, and all per-acre fees collected under section 8309
1503.57 of the Revised Code for the conversion of forest land 8310
shall be paid into the state forest fund. 8311

At the time of making such a payment or deposit, the chief 8312
shall determine the amount and gross value of all such products 8313
sold or royalties received from lands and nurseries in each 8314
county, in each township within the county, and in each school 8315
district within the county. Afterward the chief shall send to each 8316
county treasurer a copy of the determination and shall provide for 8317
payment to the county treasurer, for the use of the general fund 8318
of that county from the amount so received as provided in this 8319
division, an amount equal to eighty per cent of the gross value of 8320
the products sold or royalties received from lands and nurseries 8321
located in that county. The county auditor shall do all of the 8322
following: 8323

(1) Retain for the use of the general fund of the county 8324

one-fourth of the amount received by the county under division (D) 8325
of this section; 8326

(2) Pay into the general fund of any township located within 8327
the county and containing such lands and nurseries one-fourth of 8328
the amount received by the county from products sold or royalties 8329
received from lands and nurseries located in the township; 8330

(3) Request the board of education of any school district 8331
located within the county and containing such lands and nurseries 8332
to identify which fund or funds of the district should receive the 8333
moneys available to the school district under division (D)(3) of 8334
this section. After receiving notice from the board, the county 8335
auditor shall pay into the fund or funds so identified one-half of 8336
the amount received by the county from products sold or royalties 8337
received from lands and nurseries located in the school district, 8338
distributed proportionately as identified by the board. 8339

The division of forestry shall not supply logs, lumber, or 8340
other forest products or minerals, taken from the state forest 8341
lands or state forest nurseries, to any other agency or 8342
subdivision of the state unless payment is made therefor in the 8343
amount of the actual prevailing value thereof. This section is 8344
applicable to the moneys so received. All moneys received from the 8345
sale of reforestation tree stock or other revenues derived from 8346
the operation of the state forests, facilities, or equipment shall 8347
be paid into the state forest fund. 8348

The fund shall not be expended for any purpose other than the 8349
administration, operation, maintenance, development, or 8350
utilization of the state forests, forest nurseries, and forest 8351
programs, for facilities or equipment incident to them, or for the 8352
further purchase of lands for state forest or forest nursery 8353
purposes. 8354

Sec. 1503.50. As used in sections 1503.50 to 1503.58 of the 8355

<u>Revised Code:</u>	8356
<u>(A) "Buying timber" means to purchase timber, cut timber in exchange for receiving a share of it, or barter for timber; to offer to do so; or to take possession of timber with or without the consent of the timber grower.</u>	8357 8358 8359 8360
<u>(B) "Forest land" means land consisting of a stand or stands of timber that contain not less than fifty square feet of basal area or not less than three hundred stems per acre and that are distributed evenly throughout the stand.</u>	8361 8362 8363 8364
<u>(C) "Person" means an individual, partnership, firm, association, business trust, or corporation.</u>	8365 8366
<u>(D) "Rules" means rules adopted by the chief of the division of forestry under section 1503.58 of the Revised Code.</u>	8367 8368
<u>(E) "Timber" means trees, standing or felled, and parts of trees that can be used for sawing or processing into lumber for building or structural purposes or for the manufacture of any article. "Timber" does not include Christmas trees, fruit or ornamental trees, or wood products that are not used or intended for use for building, structural, manufacturing, or processing purposes.</u>	8369 8370 8371 8372 8373 8374 8375
<u>(F) "Timber buyer" means a person who is engaged in either of the following:</u>	8376 8377
<u>(1) The business of buying timber from its grower for the purposes of sawing it into lumber, processing it, or reselling it;</u>	8378 8379
<u>(2) Land-clearing, as "land-clearing" is defined in rules.</u>	8380
<u>"Timber buyer" does not include a person who purchases timber for the purposes of sawing or processing it for the person's own use and not for resale, provided that the person does not purchase timber more frequently than the interval established in rules or in greater amounts than the amounts specified in rules.</u>	8381 8382 8383 8384 8385

Sec. 1503.51. Not later than July 1, 2004, the chief of the 8386
division of forestry shall establish a program for the licensure 8387
of timber buyers. 8388

On and after July 1, 2004, no person shall act as a timber 8389
buyer unless the person holds a valid timber buyer license issued 8390
by the chief. A person who wishes to obtain a timber buyer license 8391
shall file an application with the chief on a form that the chief 8392
prescribes and provides. The application shall include the 8393
applicant's name, the names of the applicant's principal officers 8394
if the applicant is a corporation, the names of the applicant's 8395
partners if the applicant is a partnership, the location of any 8396
principal office or place of business of the applicant, the 8397
counties in this state in which the applicant proposes to engage 8398
in business as a timber buyer, and any additional information that 8399
the chief requires. 8400

An applicant shall include with an application a filing fee 8401
of one hundred dollars plus an additional five-dollar fee for a 8402
timber buyer identification card. The chief shall deposit fees 8403
collected under this section in the state treasury to the credit 8404
of the state forest fund created in section 1503.05 of the Revised 8405
Code. 8406

Upon receipt of a completed application together with the 8407
one-hundred-dollar fee and the five-dollar fee, the chief shall 8408
issue a license and a timber buyer identification card to the 8409
applicant, except that the chief shall not issue a license or 8410
timber buyer identification card to an applicant who has violated 8411
section 1503.56 or 1503.57 of the Revised Code by failing to pay a 8412
fee established in those sections. The license and identification 8413
card shall be valid for one year and may be renewed in the same 8414
manner that an initial license and identification card are applied 8415
for and issued. 8416

Sec. 1503.52. (A) A timber buyer shall post a copy of that 8417
person's valid timber buyer license in the timber buyer's 8418
principal office in this state. 8419

(B) When engaged in buying timber, a timber buyer shall carry 8420
on the timber buyer's person a valid timber buyer identification 8421
card. Upon the request of the chief of the division of forestry, 8422
the chief's authorized representative, a sheriff, a deputy 8423
sheriff, or any other peace officer, a timber buyer shall present 8424
the identification card for inspection. No person charged with 8425
violating this division shall be convicted if the person produces 8426
in court satisfactory evidence that a timber buyer identification 8427
card that was valid at the time of the violation had been issued 8428
to the person. 8429

Sec. 1503.53. (A) No timber buyer shall do any of the 8430
following: 8431

(1) Knowingly fail to pay for any timber purchased as agreed 8432
to with the seller; 8433

(2) Knowingly cut or cause to be cut or appropriate any 8434
timber without the consent of the timber grower; 8435

(3) Knowingly make any false statement in connection with an 8436
application for a timber buyer license or any other information 8437
that is required under sections 1503.50 to 1503.58 of the Revised 8438
Code; 8439

(4) Knowingly fail to accurately account for timber for 8440
purposes of calculating the sustainable forestry fee established 8441
under section 1503.56 of the Revised Code; 8442

(5) Commit any act in connection with the cutting or purchase 8443
of timber with purpose to defraud or deceive; 8444

(6) Violate sections 1503.50 to 1503.58 of the Revised Code 8445

or rules. 8446

(B) No person shall resist or obstruct the chief of the 8447
division of forestry or the chief's authorized representatives in 8448
the administration or enforcement of sections 1503.50 to 1503.58 8449
of the Revised Code or rules. 8450

Sec. 1503.54. The chief of the division of forestry may 8451
inspect at any reasonable time the premises used by a timber buyer 8452
in the conduct of the timber buyer's business. During business 8453
hours, the books, accounts, records, and papers that are used in 8454
the conduct of the timber buyer's business are subject to 8455
inspection by the chief. A timber buyer shall retain the books, 8456
accounts, records, and papers that pertain to buying timber for a 8457
period of three years after the timber is bought. 8458

Sec. 1503.55. The chief of the division of forestry may 8459
suspend or revoke the timber buyer license of any person who 8460
violates sections 1503.50 to 1503.58 of the Revised Code or rules. 8461
In addition, the chief may refuse to issue a timber buyer license 8462
and timber buyer identification card to a person whose license has 8463
been suspended or revoked for a period not to exceed five years 8464
following the suspension or revocation. 8465

The chief, by application to a court of competent 8466
jurisdiction, may seek, and the court may issue, an injunction 8467
restraining a timber buyer who engages in the business of buying 8468
timber in this state and who does not hold a valid timber buyer 8469
license from continuing to engage in that business until the 8470
person obtains a valid timber buyer license. Upon refusal or 8471
neglect to obey the order of the court, the court may compel 8472
compliance by initiating proceedings for contempt. 8473

Sec. 1503.56. (A) On and after July 1, 2004, each timber 8474
buyer who engages in buying timber in this state shall pay a 8475

sustainable forestry fee. Except as otherwise provided in division 8476
(B) of this section, the amount of the fee shall be equal to six 8477
per cent of the value, as determined by the sale price, of the 8478
timber involved in a transaction. 8479

The timber buyer shall include with the fee a report 8480
describing the timber transaction that is the basis of the fee. 8481
The report shall be made on forms prescribed and provided by the 8482
chief of the division of forestry and shall include information 8483
specified by rules. The timber buyer shall post a copy of the 8484
report in a conspicuous place at the harvest site. 8485

(B) In the case of a timber buyer who engages in the business 8486
of land-clearing forest land, as "land-clearing" is defined in 8487
rules, the timber buyer shall pay a sustainable forestry fee in an 8488
amount that is equal to six per cent of the gross value of the 8489
standing timber before its harvest. The timber buyer shall include 8490
with the fee a list on forms that the chief prescribes and 8491
provides. The list shall specify the size and species of the 8492
timber removed together with its gross value as standing timber. 8493
If the chief disputes the gross value assigned to the timber, the 8494
chief may cause an investigation to be made into the actual gross 8495
value of the timber. 8496

A sustainable forestry fee is not due under this division for 8497
the clearing of land that does not consist of forest land. 8498

(C) Prior to harvesting timber, a timber buyer shall submit 8499
the sustainable forestry fee together with the report or the list, 8500
as appropriate, that are required under this section to the chief 8501
in accordance with procedures established in rules. The chief 8502
shall deposit the fee in the state treasury to the credit of the 8503
state forest fund created in section 1503.05 of the Revised Code. 8504

(D) The chief shall rebate one-sixth of a sustainable 8505
forestry fee that the chief receives to the following persons 8506

under the following circumstances: 8507

(1) The owner of the land on which timber was harvested, 8508
provided that the landowner supplies the chief with documentation 8509
that either a professional forester planned and administered the 8510
harvest or a trained logger was utilized in the harvest of the 8511
timber; 8512

(2) The timber buyer, provided that the timber buyer supplies 8513
the chief with any information about the harvest that is 8514
encouraged under section 1511.02 of the Revised Code and that a 8515
trained logger and management practices to protect water quality 8516
were utilized in the harvest of the timber. 8517

For purposes of division (D) of this section, in order to be 8518
considered a professional forester or a trained logger, a person 8519
shall satisfy the standards established in rules. 8520

Sec. 1503.57. A landowner who converts land use from forest 8521
land to nonforest land that is not used for agriculture shall pay 8522
a per-acre conversion fee to the chief of the division of 8523
forestry. The fee shall be submitted in an amount and in 8524
accordance with procedures and other requirements established by 8525
rules. The chief shall deposit the fee in the state treasury to 8526
the credit of the state forest fund created in section 1503.05 of 8527
the Revised Code. 8528

Sec. 1503.58. (A) In accordance with Chapter 119. of the 8529
Revised Code, the chief of the division of forestry shall adopt 8530
rules that do all of the following: 8531

(1) Establish procedures, eligibility criteria, and any other 8532
provisions that are necessary for the administration of a 8533
cost-share program under which the state may share the costs to 8534
private forest landowners of enhancing the sustainability of the 8535
forest resource in this state; 8536

(2) Establish procedures, eligibility criteria, and any other provisions that are necessary for the administration of a grant program for the purpose of enhancing the sustainability and economic development of the forest resource in this state; 8537
8538
8539
8540

(3) Define "land-clearing" for purposes of sections 1503.50 to 1503.58 of the Revised Code; 8541
8542

(4) Establish the maximum frequency and amount of timber purchases that a person may make for the person's own use without being considered to be a timber buyer; 8543
8544
8545

(5) Specify the information that must be included in the report that is required to be submitted with a sustainable forestry fee under section 1503.56 of the Revised Code and establish procedures for submitting the report together with procedures for submitting the list that is required under that section; 8546
8547
8548
8549
8550
8551

(6) Establish standards that a person must meet in order to be considered to be a professional forester or a trained logger for purposes of section 1503.56 of the Revised Code; 8552
8553
8554

(7) Establish the amount of the per-acre conversion fee that is required under section 1503.57 of the Revised Code and establish procedures for submitting the fee and any other requirements that are necessary to administer that section. 8555
8556
8557
8558

(B) In accordance with Chapter 119. of the Revised Code, the chief may adopt any additional rules that the chief considers necessary to administer sections 1503.50 to 1503.58 of the Revised Code. 8559
8560
8561
8562

Sec. 1503.99. (A) Whoever violates section 1503.01 or 1503.12 of the Revised Code is guilty of a minor misdemeanor. 8563
8564

(B) Whoever violates section 1503.18 or 1503.43 of the Revised Code is guilty of a misdemeanor of the third degree. 8565
8566

(C) Whoever violates section 1503.53 of the Revised Code is guilty of a minor misdemeanor. Whoever knowingly violates that section during a time period when the person does not possess a valid timber buyer license because the person's license has been suspended or revoked or the chief of the division of forestry has refused to issue a license under section 1503.55 of the Revised Code is guilty of a misdemeanor of the fourth degree.

Sec. 1509.06. An application for a permit to drill a new well, drill an existing well deeper, reopen a well, convert a well to any use other than its original purpose, or plug back a well to a different source of supply shall be filed with the chief of the division of mineral resources management upon such form as the chief prescribes and shall contain each of the following that is applicable:

(A) The name and address of the owner and, if a corporation, the name and address of the statutory agent;

(B) The signature of the owner or the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of the appointment as such agent.

(C) The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit;

(D) The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township, and county;

(E) Designation of the well by name and number;

(F) The geological formation to be tested or used and the proposed total depth of the well;

(G) The type of drilling equipment to be used;

(H) If the well is for the injection of a liquid, identity of 8596
the geological formation to be used as the injection zone and the 8597
composition of the liquid to be injected; 8598

(I) A sworn statement that all requirements of any municipal 8599
corporation, county, or township having jurisdiction over any 8600
activity related to the drilling or operation of an oil or gas 8601
well that have been filed with the division of mineral resources 8602
management and are in effect at the time the application is filed, 8603
including, but not limited to, zoning ordinances and resolutions 8604
and the requirements of section 4513.34 of the Revised Code, will 8605
be complied with until abandonment of the well; 8606

(J) A plan for restoration of the land surface disturbed by 8607
drilling operations. The plan shall provide for compliance with 8608
the restoration requirements of division (A) of section 1509.072 8609
of the Revised Code and any rules adopted by the chief pertaining 8610
to that restoration. 8611

(K) A description by name or number of the county, township, 8612
and municipal corporation roads, streets, and highways that the 8613
applicant anticipates will be used for access to and egress from 8614
the well site; 8615

(L) Such other relevant information as the chief prescribes 8616
by rule. 8617

Each application shall be accompanied by a map, on a scale 8618
not smaller than four hundred feet to the inch, prepared by an 8619
Ohio registered surveyor, showing the location of the well and 8620
containing such other data as may be prescribed by the chief. If 8621
the well is or is to be located within the excavations and 8622
workings of a mine, the map also shall include the location of the 8623
mine, the name of the mine, and the name of the person operating 8624
the mine. 8625

The chief shall cause a copy of the weekly circular prepared 8626

by the division to be provided to the county engineer of each 8627
county that contains active or proposed drilling activity. The 8628
weekly circular shall contain, in the manner prescribed by the 8629
chief, the names of all applicants for permits, the location of 8630
each well or proposed well, the information required by division 8631
(K) of this section, and any additional information the chief 8632
prescribes. 8633

The chief shall not issue a permit for at least ten days 8634
after the date of filing of the application for the permit unless, 8635
upon reasonable cause shown, the chief waives that period or a 8636
request for expedited review is filed under this section. However, 8637
the chief shall issue a permit within twenty-one days of the 8638
filing of the application unless the chief denies the application 8639
by order. 8640

An applicant may file a request with the chief for expedited 8641
review of a permit application if the well is not or is not to be 8642
located in a gas storage reservoir or reservoir protective area, 8643
as "reservoir protective area" is defined in section 1571.01 of 8644
the Revised Code. If the well is or is to be located in a coal 8645
bearing township, the application shall be accompanied by the 8646
affidavit of the landowner prescribed in section 1509.08 of the 8647
Revised Code. 8648

In addition to a complete application for a permit that meets 8649
the requirements of this section and the permit fee prescribed by 8650
this section, a request for expedited review shall be accompanied 8651
by a separate nonrefundable filing fee of five hundred dollars. 8652
Upon the filing of a request for expedited review, the chief shall 8653
cause the county engineer of the county in which the well is or is 8654
to be located to be notified of the filing of the permit 8655
application and the request for expedited review by telephone or 8656
other means that in the judgment of the chief will provide timely 8657
notice of the application and request. The chief shall issue a 8658

permit within seven days of the filing of the request unless the 8659
chief denies the application by order. Notwithstanding the 8660
provisions of this section governing expedited review of permit 8661
applications, the chief may refuse to accept requests for 8662
expedited review if, in the chief's judgment, the acceptance of 8663
the requests would prevent the issuance, within twenty-one days of 8664
their filing, of permits for which applications are pending. 8665

A well shall be drilled and operated in accordance with the 8666
plans, sworn statements, and other information submitted in the 8667
approved application. 8668

The chief shall issue an order denying a permit if the chief 8669
finds that there is a substantial risk that the operation will 8670
result in violations of this chapter or rules adopted under it 8671
that will present an imminent danger to public health or safety or 8672
damage to the environment, provided that where the chief finds 8673
that terms or conditions to the permit can reasonably be expected 8674
to prevent such violations, the chief shall issue the permit 8675
subject to those terms or conditions. 8676

Each application for a permit required by section 1509.05 of 8677
the Revised Code, except an application for a well drilled or 8678
reopened for purposes of section 1509.22 of the Revised Code, also 8679
shall be accompanied by a nonrefundable fee of two hundred fifty 8680
dollars. 8681

The chief may order the immediate suspension of drilling, 8682
operating, or plugging activities after finding that any person is 8683
causing, engaging in, or maintaining a condition or activity that 8684
in the chief's judgment presents an imminent danger to public 8685
health or safety or results in or is likely to result in immediate 8686
substantial damage to natural resources or for nonpayment of the 8687
fee required by this section. The chief may order the immediate 8688
suspension of the drilling or reopening of a well in a coal 8689
bearing township after determining that the drilling or reopening 8690

activities present an imminent and substantial threat to public 8691
health or safety or to miners' health or safety. Before issuing 8692
any such order, the chief shall notify the owner in such manner as 8693
in the chief's judgment would provide reasonable notification that 8694
the chief intends to issue a suspension order. The chief may issue 8695
such an order without prior notification if reasonable attempts to 8696
notify the owner have failed, but in such an event notification 8697
shall be given as soon thereafter as practical. Within five 8698
calendar days after the issuance of the order, the chief shall 8699
provide the owner an opportunity to be heard and to present 8700
evidence that the condition or activity is not likely to result in 8701
immediate substantial damage to natural resources or does not 8702
present an imminent danger to public health or safety or to 8703
miners' health or safety, if applicable. In the case of activities 8704
in a coal bearing township, if the chief, after considering 8705
evidence presented by the owner, determines that the activities do 8706
not present such a threat, the chief shall revoke the suspension 8707
order. Notwithstanding any provision of this chapter, the owner 8708
may appeal a suspension order directly to the court of common 8709
pleas of the county in which the activity is located ~~or, if in a~~ 8710
~~coal bearing township, to the reclamation commission under section~~ 8711
~~1513.13 of the Revised Code.~~ 8712

Sec. 1509.08. Upon receipt of an application for a permit 8713
required by section 1509.05 of the Revised Code, or upon receipt 8714
of an application for a permit to plug and abandon under section 8715
1509.13 of the Revised Code, the chief of the division of mineral 8716
resources management shall determine whether the well is or is to 8717
be located in a coal bearing township. 8718

Whether or not the well is or is to be located in a coal 8719
bearing township, the chief, by order, may refuse to issue a 8720
permit required by section 1509.05 of the Revised Code to any 8721
applicant who at the time of applying for the permit is in 8722

material or substantial violation of this chapter or rules adopted 8723
or orders issued under it. The chief shall refuse to issue a 8724
permit to any applicant who at the time of applying for the permit 8725
has been found liable by a final nonappealable order of a court of 8726
competent jurisdiction for damage to streets, roads, highways, 8727
bridges, culverts, or drainways pursuant to section 4513.34 or 8728
5577.12 of the Revised Code until the applicant provides the chief 8729
with evidence of compliance with the order. No applicant shall 8730
attempt to circumvent this provision by applying for a permit 8731
under a different name or business organization name, by 8732
transferring responsibility to another person or entity, by 8733
abandoning the well or lease, or by any other similar act. 8734

If the well is not or is not to be located in a coal bearing 8735
township, or if it is to be located in a coal bearing township, 8736
but the landowner submits an affidavit attesting to ownership of 8737
the property in fee simple, including the coal, and has no 8738
objection to the well, the chief shall issue the permit. 8739

If the application to drill, reopen, or convert concerns a 8740
well that is or is to be located in a coal bearing township, the 8741
chief immediately shall notify the owner or lessee of any affected 8742
mine that the application has been filed and send to the owner or 8743
lessee two copies of the map accompanying the application setting 8744
forth the location of the well. 8745

If the owner or lessee objects to the location of the well or 8746
objects to any location within fifty feet of the original location 8747
as a possible site for relocation of the well, the owner or lessee 8748
shall notify the chief of the objection, giving the reasons for 8749
the objection and, if applicable, indicating on a copy of the map 8750
the particular location or locations within fifty feet of the 8751
original location to which the owner or lessee objects as a site 8752
for possible relocation of the well, within six days after the 8753
receipt of the notice. If the chief receives no objections from 8754

the owner or lessee of the mine within ten days after the receipt 8755
of the notice by the owner or lessee, or if in the opinion of the 8756
chief the objections offered by the owner or lessee are not 8757
sufficiently well founded, the chief immediately shall notify the 8758
owner or lessee of those findings. The owner or lessee may appeal 8759
the decision of the chief to the ~~reclamation~~ oil and gas 8760
commission under section ~~1513.13~~ 1509.36 of the Revised Code. The 8761
appeal shall be filed within fifteen days, notwithstanding 8762
provisions in ~~divisions (A)(1) of section 1513.13~~ 1509.36 of the 8763
Revised Code, to the contrary, from the date on which the owner or 8764
lessee receives the notice. If the appeal is not filed within that 8765
time, the chief immediately shall approve the application and 8766
issue the permit if the provisions of this chapter pertaining to 8767
the issuance of such a permit have been complied with. 8768

If the chief receives an objection from the owner or lessee 8769
of the mine as to the location of the well within ten days after 8770
receipt of the notice by the owner or lessee, and if in the 8771
opinion of the chief the objection is well founded, the chief 8772
shall disapprove the application and suggest a new location for 8773
the well, provided that the suggested new location shall not be a 8774
location within fifty feet of the original location to which the 8775
owner or lessee has objected as a site for possible relocation of 8776
the well if the chief has determined that the objection is well 8777
founded. The chief immediately shall notify the applicant for the 8778
permit of the disapproval and any suggestion as to a new location 8779
for the well. The applicant may withdraw the application or amend 8780
the application to drill the well at the location suggested by the 8781
chief, or the applicant may appeal the disapproval of the 8782
application by the chief to the ~~reclamation~~ commission. 8783

If the chief receives no objection from the owner or lessee 8784
of a mine as to the location of the well, but does receive an 8785
objection from the owner or lessee as to one or more locations 8786

within fifty feet of the original location as possible sites for 8787
relocation of the well within ten days after receipt of the notice 8788
by the owner or lessee, and if in the opinion of the chief the 8789
objection is well founded, the chief nevertheless shall approve 8790
the application and issue a permit if the provisions of this 8791
chapter pertaining to the issuance of such a permit have been 8792
complied with, incorporating as a term or condition of the permit 8793
that the applicant is prohibited from commencing drilling at any 8794
location within fifty feet of the original location that has been 8795
disapproved by the chief. The applicant may appeal to the 8796
~~reclamation~~ commission the terms and conditions of the permit 8797
prohibiting the commencement of drilling at any such location 8798
disapproved by the chief. 8799

Any such appeal shall be filed within fifteen days, 8800
notwithstanding provisions in ~~division (A)(1) of section 1513.13~~ 8801
1509.36 of the Revised Code to the contrary, from the date the 8802
applicant receives notice of the disapproval of the application, 8803
any other location within fifty feet of the original location, or 8804
terms or conditions of the permit, or the owner or lessee receives 8805
notice of the chief's decision. No approval or disapproval of an 8806
application shall be delayed by the chief for more than fifteen 8807
days from the date of sending the notice of the application to the 8808
mine owner or lessee as required by this section. 8809

All appeals provided for in this section shall be treated as 8810
expedited appeals. The ~~reclamation~~ commission shall hear any such 8811
appeal in accordance with section ~~1513.13~~ 1509.36 of the Revised 8812
Code and issue a decision within thirty days of the filing of the 8813
notice of appeal. 8814

The chief shall not issue a permit to drill a new well or 8815
reopen a well that is or is to be located within three hundred 8816
feet of any opening of any mine used as a means of ingress, 8817
egress, or ventilation for persons employed in the mine, nor 8818

within one hundred feet of any building or inflammable structure 8819
connected with the mine and actually used as a part of the 8820
operating equipment of the mine, unless the chief determines that 8821
life or property will not be endangered by drilling and operating 8822
the well in that location. 8823

Sec. 1513.02. (A) The division of mineral resources 8824
management shall administer, enforce, and implement this chapter. 8825
The chief of the division of mineral resources management shall do 8826
all of the following: 8827

(1) Adopt, amend, and rescind rules: 8828

(a) To administer and enforce this chapter; 8829

(b) To implement the requirements of this chapter for the 8830
reclamation of lands affected by coal mining, including such rules 8831
governing mining practices and procedures, segregation and 8832
placement of soil and topsoil, backfilling, grading, terracing, 8833
resoiling, soil conditioning and reconditioning, planting, 8834
establishment of drainage patterns, construction of impoundments, 8835
and the construction, maintenance, and disposition of haul roads, 8836
ditches, and dikes, as may be necessary or desirable, under 8837
varying conditions of slope, drainage, physical and chemical 8838
characteristics of soil and overburden, erodability of materials, 8839
season, growth characteristics of plants, and other factors 8840
affecting coal mining and reclamation, to facilitate the return of 8841
the land to a condition required by this chapter; to prevent 8842
pollution or substantial diminution of waters of the state, 8843
substantial erosion, substantial deposition of sediment, 8844
landslides, accumulation and discharge of acid water, and 8845
flooding, both during mining and reclamation and thereafter; to 8846
restore the recharge capacity of the mined area to approximate 8847
premining conditions; and to ensure full compliance with all 8848
requirements of this chapter relating to reclamation, and the 8849

attainment of those objectives in the interest of the public 8850
health, safety, and welfare to which these reclamation 8851
requirements are directed; 8852

(c) To meet the requirements of the "Surface Mining Control 8853
and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1201. 8854

(2) Issue orders to enforce this chapter and rules adopted 8855
under it; 8856

(3) Adopt rules for the internal management of the division 8857
that do not affect private rights; 8858

(4) Adopt programs, rules, and procedures designed to assist 8859
the coal operator in this state with the permitting process and 8860
complying with the environmental standards of this chapter. Upon 8861
request of the applicant for a permit, the chief shall make a 8862
determination of the probable hydrologic consequences required in 8863
division (B)~~(2)~~(1)(k) of section 1513.07 of the Revised Code 8864
within sixty days after a permit has been submitted to the 8865
division for those applications requesting the chief to perform 8866
the study. The chief shall perform the chemical analysis of test 8867
borings or core samplings for operators who have a total annual 8868
production of coal at all locations that does not exceed one 8869
hundred thousand tons. 8870

(5) Adopt programs, rules, and procedures designed to ensure 8871
that reclamation is performed on operations for which the 8872
performance bond has been forfeited pursuant to section 1513.16 of 8873
the Revised Code; 8874

(6) Receive, administer, and expend moneys obtained from the 8875
United States department of the interior and other federal 8876
agencies to implement the state's permanent coal regulatory 8877
program; 8878

(7)(a) Regulate the beneficial use of coal combustion 8879
byproducts at coal mining and reclamation operations and abandoned 8880

mine lands that are regulated under this chapter and rules adopted 8881
under it. The beneficial use of coal combustion byproducts at such 8882
coal mining and reclamation operations and abandoned mine lands is 8883
subject to all applicable performance standards and requirements 8884
established under this chapter and rules adopted under it, 8885
including, without limitation, standards and requirements 8886
established under section 1513.16 of the Revised Code and rules 8887
adopted pursuant to it. 8888

The beneficial use of coal combustion byproducts that is 8889
authorized at coal mining and reclamation operations and abandoned 8890
mine lands that are regulated under this chapter and rules adopted 8891
under it is not subject to the following provisions of Chapters 8892
3734. and 6111. of the Revised Code and rules adopted under those 8893
provisions: 8894

(i) Permit and license requirements for solid waste 8895
facilities established under sections 3734.02 and 3734.05 of the 8896
Revised Code; 8897

(ii) The prohibition against the open dumping of solid wastes 8898
established in section 3734.03 of the Revised Code; 8899

(iii) Solid waste generation and disposal fees established 8900
under sections 3734.57 to 3734.574 of the Revised Code; 8901

(iv) Permit to install and plan approval requirements 8902
established under sections 6111.03, 6111.44, and 6111.45 of the 8903
Revised Code. 8904

Nothing in division (A)(7) of this section shall be construed 8905
to limit any other requirements that are applicable to the 8906
beneficial use of coal combustion byproducts and that are 8907
established under Chapter 3704., 3714., 3734., or 6111. of the 8908
Revised Code or under local or federal laws, including, without 8909
limitation, requirements governing air pollution control permits, 8910
hazardous waste, national pollutant discharge elimination system 8911

permits, and section 401 water quality certifications. 8912

(b) As used in division (A)(7) of this section: 8913

(i) "Coal combustion byproducts" means fly ash, bottom ash, 8914
coal slag, flue gas desulphurization and fluidized bed combustion 8915
byproducts, air or water pollution control residues from the 8916
operation of a coal-fired electric or steam generation facility, 8917
and any material from a clean coal technology demonstration 8918
project or other innovative process at a coal-fired electric or 8919
steam generation facility. 8920

(ii) "Beneficial use" means the use of coal combustion 8921
byproducts in a manner that is not equivalent to the establishment 8922
of a disposal system or a solid waste disposal facility and that 8923
is unlikely to affect human health or safety or the environment 8924
adversely or to degrade the existing quality of the land, air, or 8925
water. "Beneficial use" includes, without limitation, land 8926
application uses for agronomic value; land reclamation uses; and 8927
discrete, controlled uses for structural fill, pavement aggregate, 8928
pipe bedding aggregate, mine sealing, alternative drainage or 8929
capping material, and pilot demonstration projects. 8930

(iii) "Structural fill" means the discrete, controlled use of 8931
a coal combustion byproduct as a substitute for a conventional 8932
aggregate, raw material, or soil under or immediately adjacent to 8933
a building or structure. "Structural fill" does not include uses 8934
that involve general filling or grading operations or valley 8935
fills. 8936

(iv) "Pavement aggregate" means the discrete, controlled use 8937
of a coal combustion byproduct as a subbase material or drainage 8938
layer under or immediately adjacent to a paved road or a paved 8939
parking lot where the coal combustion byproduct is a substitute 8940
for a conventional aggregate, raw material, or soil. 8941

(v) "Pipe bedding aggregate" means the discrete, controlled 8942

use of a coal combustion byproduct as a substitute for a 8943
conventional aggregate, raw material, or soil under, around, or 8944
immediately adjacent to a water, sewer, or other pipeline. 8945

(vi) "Coal-fired electric or steam generation facility" 8946
includes any boiler that is fired with coal or with coal in 8947
combination with petroleum coke, oil, natural gas, or any other 8948
fossil fuel. 8949

(vii) "Solid waste disposal facility" means a facility for 8950
the disposal of solid wastes as provided in Chapter 3734. of the 8951
Revised Code and rules adopted under it. 8952

(viii) "Disposal system" has the same meaning as in section 8953
6111.01 of the Revised Code. 8954

(B) The chief, by rule, may designate as unsuitable for coal 8955
mining natural areas maintained on the registry of natural areas 8956
of the department of natural resources pursuant to Chapter 1517. 8957
of the Revised Code, wild, scenic, or recreational river areas 8958
designated pursuant to that chapter, publicly owned or dedicated 8959
parks, and other areas of unique and irreplaceable natural beauty 8960
or condition, or areas within specified distances of a public 8961
road, occupied dwelling, public building, school, church, 8962
community, or institutional building, public park, or cemetery. 8963
Such a designation may include land adjacent to the perimeters of 8964
those areas that may be necessary to protect their integrity. 8965

(C)(1) The adoption, amendment, and rescission of rules under 8966
divisions (A)(1) and (B) of this section are subject to Chapter 8967
119. of the Revised Code. 8968

(2) The issuance of orders under division (A)(2) of this 8969
section and appeals therefrom are not governed by or subject to 8970
Chapter 119. of the Revised Code, but are governed by this 8971
chapter. 8972

(D)(1) When the chief or an authorized representative of the 8973

chief determines that any condition or practice exists or that any 8974
permittee is in violation of any requirement of this chapter or 8975
any permit condition required by this chapter, which condition, 8976
practice, or violation creates an imminent danger to the health or 8977
safety of the public or is causing, or can reasonably be expected 8978
to cause, significant, imminent environmental harm to land, air, 8979
or water resources, the chief or the authorized representative 8980
immediately shall order the cessation of coal mining and 8981
reclamation operations or the portion thereof relevant to the 8982
condition, practice, or violation. The cessation order shall 8983
remain in effect until the chief or the authorized representative 8984
determines that the condition, practice, or violation has been 8985
abated or until the order is modified, vacated, or terminated by 8986
the chief or the authorized representative pursuant to division 8987
(D)(4) of this section or by the ~~reclamation~~ environmental review 8988
appeals commission pursuant to section 1513.13 of the Revised 8989
Code. When the chief or the authorized representative finds that 8990
the ordered cessation of coal mining and reclamation operations or 8991
any portion thereof will not completely abate the imminent danger 8992
to the health or safety of the public or the significant, imminent 8993
environmental harm to land, air, or water resources, the chief or 8994
the authorized representative, in addition to the cessation order, 8995
shall order the operator to take whatever steps the chief or the 8996
authorized representative considers necessary to abate the 8997
imminent danger or the significant environmental harm. 8998

(2) When the chief or an authorized representative of the 8999
chief determines that any person is in violation of any 9000
requirement of this chapter or any permit condition required by 9001
this chapter, but the violation does not create an imminent danger 9002
to the health or safety of the public or cannot reasonably be 9003
expected to cause significant, imminent environmental harm to 9004
land, air, or water resources, the chief or the authorized 9005
representative shall issue a notice of violation to the person or 9006

the person's agent fixing a reasonable time for the abatement of 9007
the violation, provided that the time afforded a person to abate 9008
the violation shall not exceed the time limitations prescribed by 9009
the secretary of the interior in 30 C.F.R. Part 843 for an 9010
approvable state regulatory program under the "Surface Mining 9011
Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 9012
1201. 9013

If, upon expiration of the period of time as originally fixed 9014
or subsequently extended for good cause shown and upon the written 9015
finding of the chief or the authorized representative, the chief 9016
or the authorized representative finds that the violation has not 9017
been abated, the chief or the authorized representative 9018
immediately shall order the cessation of coal mining and 9019
reclamation operations or the portion thereof relevant to the 9020
violation. The cessation order shall remain in effect until the 9021
chief or the authorized representative determines that the 9022
violation has been abated or until the order is modified, vacated, 9023
or terminated by the chief or the authorized representative 9024
pursuant to division (D)(4) of this section or by the ~~reclamation~~ 9025
environmental review appeals commission pursuant to section 9026
1513.13 of the Revised Code. In a cessation order issued under 9027
division (D)(2) of this section, the chief or the authorized 9028
representative shall prescribe the steps necessary to abate the 9029
violation in the most expeditious manner possible. 9030

(3) When in the judgment of the chief or an authorized 9031
representative of the chief a pattern of violations of any 9032
requirements of this chapter or any permit conditions required by 9033
this chapter exists or has existed and the violations are caused 9034
by the unwarranted failure of the permittee to comply with any 9035
requirements of this chapter or any permit conditions or are 9036
willfully caused by the permittee, the chief or the authorized 9037
representative immediately shall issue an order to the permittee 9038

to show cause why the permit should not be suspended or revoked. 9039
If a hearing is requested, the chief shall inform all interested 9040
parties of the time and place of the hearing and conduct the 9041
hearing pursuant to division (D) of section 1513.13 of the Revised 9042
Code. Upon the permittee's failure to show cause why the permit 9043
should not be suspended or revoked, the chief or the authorized 9044
representative immediately shall suspend or revoke the permit. 9045

(4) Notices of violation and orders issued pursuant to this 9046
section shall set forth with reasonable specificity the nature of 9047
the violation and the remedial action required, the period of time 9048
established for abatement, and a reasonable description of the 9049
portion of the coal mining and reclamation operation to which the 9050
notice or order applies. Each notice or order issued under this 9051
section shall be given promptly to the alleged violator or the 9052
agent of the alleged violator by the chief or an authorized 9053
representative of the chief who issues the notice or order. 9054
Notices and orders shall be in writing and shall be signed by the 9055
chief or the authorized representative and may be modified, 9056
vacated, or terminated by the chief or the authorized 9057
representative. Any notice or order issued pursuant to this 9058
section that requires cessation of mining by the operator shall 9059
expire within thirty days after actual notice to the operator 9060
unless a public hearing pursuant to section 1513.13 of the Revised 9061
Code is held at the site or within such reasonable proximity to 9062
the site that any viewings of the site can be conducted during the 9063
course of the public hearing. 9064

(E)(1) A person who violates a permit condition or any other 9065
provision of this chapter may be assessed a civil penalty by the 9066
chief, except that if the violation leads to the issuance of a 9067
cessation order under division (D) of this section, the civil 9068
penalty shall be assessed for each day until the person initiates 9069
the necessary corrective steps. The penalty shall not exceed five 9070

thousand dollars for each violation. Each day of continuing 9071
violation may be deemed a separate violation for purposes of 9072
penalty assessments. In determining the amount of the penalty, 9073
consideration shall be given to the person's history of previous 9074
violation at the particular coal mining operation; the seriousness 9075
of the violation, including any irreparable harm to the 9076
environment and any hazard to the health or safety of the public; 9077
whether the person was negligent; and the demonstrated diligence 9078
of the person charged in attempting to achieve rapid compliance 9079
after notification of the violation. 9080

(2) A civil penalty shall be assessed by the chief only after 9081
the person charged with a violation under division (E)(1) of this 9082
section has been given an opportunity for a public hearing. If a 9083
person charged with such a violation fails to avail oneself of the 9084
opportunity for a public hearing, a civil penalty shall be 9085
assessed by the chief after the chief has determined that a 9086
violation did occur, and the amount of the penalty that is 9087
warranted, and has issued an order requiring that the penalty be 9088
paid. 9089

(3) Upon the issuance of a notice or order charging that a 9090
violation of this chapter has occurred, the chief shall inform the 9091
operator within thirty days of the proposed amount of the penalty 9092
and provide opportunity for an adjudicatory hearing pursuant to 9093
section 1513.13 of the Revised Code. The person charged with the 9094
penalty then shall have thirty days to pay the proposed penalty in 9095
full or, if the person wishes to contest either the amount of the 9096
penalty or the fact of the violation, file a petition for review 9097
of the proposed assessment with the secretary of the ~~reclamation~~ 9098
environmental review appeals commission pursuant to section 9099
1513.13 of the Revised Code. If, after the hearing, the commission 9100
affirms or modifies the proposed amount of the penalty, the person 9101
charged with the penalty then shall have thirty days after receipt 9102

of the written decision to pay the amount in full or file an 9103
appeal with the court of appeals in accordance with section 9104
1513.14 of the Revised Code. At the time the petition for review 9105
of the proposed assessment is filed with the secretary, the person 9106
shall forward the amount of the penalty to the secretary for 9107
placement in the reclamation penalty fund, which is hereby 9108
created. The fund shall be in the custody of the treasurer of 9109
state, but shall not be a part of the state treasury. Pursuant to 9110
administrative or judicial review of the penalty, the secretary, 9111
within thirty days, shall remit the appropriate amount of the 9112
penalty to the person, with interest, if it is determined that no 9113
violation occurred or that the amount of the penalty should be 9114
reduced, and the secretary shall forward the balance of the 9115
penalty or, if the penalty was not reduced, the entire amount of 9116
the penalty, with interest, to the chief for deposit in the coal 9117
mining administration and reclamation reserve fund created in 9118
section 1513.181 of the Revised Code. Failure to forward the money 9119
to the secretary within thirty days after the chief informs the 9120
operator of the proposed amount of the penalty shall result in a 9121
waiver of all legal rights to contest the violation or the amount 9122
of the penalty. Within fifteen days after being informed of the 9123
penalty, the person charged with the penalty may request in 9124
writing an informal assessment conference to review the amount of 9125
the penalty. The conference shall be presided over by the chief or 9126
an individual appointed by the chief other than the inspector that 9127
issued the notice of violation or order upon which the penalty is 9128
based. The chief shall adopt rules governing procedures to be 9129
followed in informal conferences. Time allowed for payment of the 9130
penalty or appeal to the commission shall be tolled while the 9131
penalty is being reviewed in an informal conference. 9132

(4) An operator who fails to correct a violation for which a 9133
notice of violation or order has been issued under division (D) of 9134
this section within the period permitted for its correction shall 9135

be assessed a civil penalty of not less than seven hundred fifty 9136
dollars for each day during which the failure or violation 9137
continues. However, a civil penalty shall not be assessed under 9138
division (E)(4) of this section if the commission orders the 9139
suspension of the abatement requirement after determining, based 9140
upon the findings of an expedited hearing held under section 9141
1513.13 of the Revised Code at the request of the operator, that 9142
the operator will suffer irreparable loss or damage from the 9143
application of the abatement requirement or if the court orders 9144
suspension of the abatement requirement pursuant to review 9145
proceedings held under section 1513.14 of the Revised Code at the 9146
request of the operator. 9147

(F) The chief may enter into a cooperative agreement with the 9148
secretary of the interior to provide for state regulation of coal 9149
mining and reclamation operations on federal lands within the 9150
state. 9151

(G) The chief may prohibit augering if necessary to maximize 9152
the utilization, recoverability, or conservation of the solid fuel 9153
resources or to protect against adverse water quality impacts. 9154

(H) The chief shall transmit copies of all schedules 9155
submitted under section 1513.07 of the Revised Code pertaining to 9156
violations of air or water quality laws and rules adopted and 9157
orders issued under those laws in connection with coal mining 9158
operations to the director of environmental protection for 9159
verification. 9160

(I) For the purposes of sections 1513.18, 1513.24, 1513.37, 9161
and 1514.06 of the Revised Code, the chief triennially shall 9162
determine the average wage rate for companies performing 9163
reclamation work for the division under those sections by 9164
averaging the wage rate paid by all companies performing such 9165
reclamation work during the three years immediately preceding the 9166
determination. However, in making the initial determination under 9167

this division, the chief shall average the wage rate paid by all 9168
companies performing such reclamation work during the ten years 9169
immediately preceding October 29, 1995. 9170

Sec. 1513.07. (A)(1) No operator shall conduct a coal mining 9171
operation without a permit for the operation issued by the chief 9172
of the division of mineral resources management. 9173

(2) All permits issued pursuant to this chapter shall be 9174
issued for a term not to exceed five years, except that, if the 9175
applicant demonstrates that a specified longer term is reasonably 9176
needed to allow the applicant to obtain necessary financing for 9177
equipment and the opening of the operation, and if the application 9178
is full and complete for the specified longer term, the chief may 9179
grant a permit for the longer term. A successor in interest to a 9180
permittee who applies for a new permit within thirty days after 9181
succeeding to the interest and who is able to obtain the bond 9182
coverage of the original permittee may continue coal mining and 9183
reclamation operations according to the approved mining and 9184
reclamation plan of the original permittee until the successor's 9185
application is granted or denied. 9186

(3) A permit shall terminate if the permittee has not 9187
commenced the coal mining operations covered by the permit within 9188
three years after the issuance of the permit, except that the 9189
chief may grant reasonable extensions of the time upon a showing 9190
that the extensions are necessary by reason of litigation 9191
precluding the commencement or threatening substantial economic 9192
loss to the permittee, or by reason of conditions beyond the 9193
control and without the fault or negligence of the permittee, and 9194
except that with respect to coal to be mined for use in a 9195
synthetic fuel facility or specified major electric generating 9196
facility, the permittee shall be deemed to have commenced coal 9197
mining operations at the time construction of the synthetic fuel 9198

or generating facility is initiated. 9199

(4)(a) Any permit issued pursuant to this chapter shall carry 9200
with it the right of successive renewal upon expiration with 9201
respect to areas within the boundaries of the permit. The holders 9202
of the permit may apply for renewal and the renewal shall be 9203
issued, unless the chief determines by written findings, 9204
subsequent to fulfillment of the public notice requirements of 9205
this section and section 1513.071 of the Revised Code through 9206
demonstrations by opponents of renewal or otherwise, that one or 9207
more of the following circumstances exists: 9208

(i) The terms and conditions of the existing permit are not 9209
being satisfactorily met. 9210

(ii) The present coal mining and reclamation operation is not 9211
in compliance with the environmental protection standards of this 9212
chapter. 9213

(iii) The renewal requested substantially jeopardizes the 9214
operator's continuing responsibilities on existing permit areas. 9215

(iv) The applicant has not provided evidence that the 9216
performance bond in effect for the operation will continue in 9217
effect for any renewal requested in the application. 9218

(v) Any additional, revised, or updated information required 9219
by the chief has not been provided. Prior to the approval of any 9220
renewal of a permit, the chief shall provide notice to the 9221
appropriate public authorities as prescribed by rule of the chief. 9222

(b) If an application for renewal of a valid permit includes 9223
a proposal to extend the mining operation beyond the boundaries 9224
authorized in the existing permit, the portion of the application 9225
for renewal of a valid permit that addresses any new land areas 9226
shall be subject to the full standards applicable to new 9227
applications under this chapter. 9228

(c) A permit renewal shall be for a term not to exceed the 9229
period of the original permit established by this chapter. 9230
Application for permit renewal shall be made at least one hundred 9231
twenty days prior to the expiration of the valid permit. 9232

(5) A permit issued pursuant to this chapter does not 9233
eliminate the requirements for obtaining a permit to install or 9234
modify a disposal system or any part thereof or to discharge 9235
sewage, industrial waste, or other wastes into the waters of the 9236
state in accordance with Chapter 6111. of the Revised Code. 9237

(B)(1) Each application for a coal mining and reclamation 9238
permit or renewal of such a permit ~~shall be accompanied by a~~ 9239
~~permit or renewal fee in an amount equal to the product of~~ 9240
~~seventy five dollars multiplied by the number of acres, estimated~~ 9241
~~in the application, that will comprise the area of land to be~~ 9242
~~affected within the permit or renewal period by the coal mining~~ 9243
~~operation for which the permit or renewal is requested.~~ 9244

~~(2) The permit application~~ shall be submitted in a manner 9245
satisfactory to the chief and shall contain, among other things, 9246
all of the following: 9247

(a) The names and addresses of all of the following: 9248

(i) The permit applicant; 9249

(ii) Every legal owner of record of the property, surface and 9250
mineral, to be mined; 9251

(iii) The holders of record of any leasehold interest in the 9252
property; 9253

(iv) Any purchaser of record of the property under a real 9254
estate contract; 9255

(v) The operator if different from the applicant; 9256

(vi) If any of these are business entities other than a 9257
single proprietor, the names and addresses of the principals, 9258

officers, and statutory agent for service of process.	9259
(b) The names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area;	9260 9261 9262
(c) A statement of any current or previous coal mining permits in the United States held by the applicant, the permit identification, and any pending applications;	9263 9264 9265
(d) If the applicant is a partnership, corporation, association, or other business entity, the following where applicable: the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, the name and address of any person owning, of record, ten per cent or more of any class of voting stock of the applicant, a list of all names under which the applicant, partner, or principal shareholder previously operated a coal mining operation within the United States within the five-year period preceding the date of submission of the application, and a list of the person or persons primarily responsible for ensuring that the applicant complies with the requirements of this chapter and rules adopted pursuant thereto while mining and reclaiming under the permit;	9266 9267 9268 9269 9270 9271 9272 9273 9274 9275 9276 9277 9278 9279
(e) A statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, any partner if the applicant is a partnership, any officer, principal shareholder, or director if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant:	9280 9281 9282 9283 9284 9285 9286
(i) Has ever held a federal or state coal mining permit that in the five-year period prior to the date of submission of the application has been suspended or revoked or has had a coal mining	9287 9288 9289

bond or similar security deposited in lieu of bond forfeited and, 9290
if so, a brief explanation of the facts involved; 9291

(ii) Has been an officer, partner, director, principal 9292
shareholder, or person having the right to control or has in fact 9293
controlled the management of or the selection of officers, 9294
directors, or managers of a business entity that has had a coal 9295
mining or surface mining permit that in the five-year period prior 9296
to the date of submission of the application has been suspended or 9297
revoked or has had a coal mining or surface mining bond or similar 9298
security deposited in lieu of bond forfeited and, if so, a brief 9299
explanation of the facts involved. 9300

(f) A copy of the applicant's advertisement to be published 9301
in a newspaper of general circulation in the locality of the 9302
proposed site at least once a week for four successive weeks, 9303
which shall include the ownership of the proposed mine, a 9304
description of the exact location and boundaries of the proposed 9305
site sufficient to make the proposed operation readily 9306
identifiable by local residents, and the location where the 9307
application is available for public inspection; 9308

(g) A description of the type and method of coal mining 9309
operation that exists or is proposed, the engineering techniques 9310
proposed or used, and the equipment used or proposed to be used; 9311

(h) The anticipated or actual starting and termination dates 9312
of each phase of the mining operation and number of acres of land 9313
to be affected; 9314

(i) An accurate map or plan, to an appropriate scale, clearly 9315
showing the land to be affected and the land upon which the 9316
applicant has the legal right to enter and commence coal mining 9317
operations, copies of those documents upon which is based the 9318
applicant's legal right to enter and commence coal mining 9319
operations, and a statement whether that right is the subject of 9320

pending litigation. This chapter does not authorize the chief to adjudicate property title disputes.

(j) The name of the watershed and location of the surface stream or tributary into which drainage from the operation will be discharged;

(k) A determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, providing information on the quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the chief of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability, but this determination shall not be required until hydrologic information of the general area prior to mining is made available from an appropriate federal or state agency; however, the permit shall not be approved until the information is available and is incorporated into the application;

(l) When requested by the chief, the climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges;

(m) Accurate maps prepared by or under the direction of and certified by a qualified registered professional engineer, registered surveyor, or licensed landscape architect to an appropriate scale clearly showing all types of information set forth on topographical maps of the United States geological survey of a scale of not more than four hundred feet to the inch, including all artificial features and significant known archeological sites. The map, among other things specified by the

chief, shall show all boundaries of the land to be affected, the 9353
boundary lines and names of present owners of record of all 9354
surface areas abutting the permit area, and the location of all 9355
buildings within one thousand feet of the permit area. 9356

(n)(i) Cross-section maps or plans of the land to be affected 9357
including the actual area to be mined, prepared by or under the 9358
direction of and certified by a qualified registered professional 9359
engineer or certified professional geologist with assistance from 9360
experts in related fields such as hydrology, hydrogeology, 9361
geology, and landscape architecture, showing pertinent elevations 9362
and locations of test borings or core samplings and depicting the 9363
following information: the nature and depth of the various strata 9364
of overburden; the nature and thickness of any coal or rider seam 9365
above the coal seam to be mined; the nature of the stratum 9366
immediately beneath the coal seam to be mined; all mineral crop 9367
lines and the strike and dip of the coal to be mined within the 9368
area to be affected; existing or previous coal mining limits; the 9369
location and extent of known workings of any underground mines, 9370
including mine openings to the surface; the location of spoil, 9371
waste, or refuse areas and topsoil preservation areas; the 9372
location of all impoundments for waste or erosion control; any 9373
settling or water treatment facility; constructed or natural 9374
drainways and the location of any discharges to any surface body 9375
of water on the land to be affected or adjacent thereto; profiles 9376
at appropriate cross sections of the anticipated final surface 9377
configuration that will be achieved pursuant to the operator's 9378
proposed reclamation plan; the location of subsurface water, if 9379
encountered; the location and quality of aquifers; and the 9380
estimated elevation of the water table. Registered surveyors shall 9381
be allowed to perform all plans, maps, and certifications under 9382
this chapter as they are authorized under Chapter 4733. of the 9383
Revised Code. 9384

(ii) A statement of the quality and locations of subsurface water. The chief shall provide by rule the number of locations to be sampled, frequency of collection, and parameters to be analyzed to obtain the statement required.

(o) A statement of the results of test borings or core samplings from the permit area, including logs of the drill holes, the thickness of the coal seam found, an analysis of the chemical properties of the coal, the sulfur content of any coal seam, chemical analysis of potentially acid or toxic forming sections of the overburden, and chemical analysis of the stratum lying immediately underneath the coal to be mined, except that this division may be waived by the chief with respect to the specific application by a written determination that its requirements are unnecessary;

(p) For those lands in the permit application that a reconnaissance inspection suggests may be prime farmlands, a soil survey shall be made or obtained according to standards established by the secretary of the United States department of agriculture in order to confirm the exact location of the prime farmlands, if any;

(q) A certificate issued by an insurance company authorized to do business in this state certifying that the applicant has a public liability insurance policy in force for the coal mining and reclamation operations for which the permit is sought or evidence that the applicant has satisfied other state self-insurance requirements. The policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of coal mining and reclamation operations, including the use of explosives, and entitled to compensation under the applicable provisions of state law. The policy shall be maintained in effect during the term of the permit or any renewal, including the length of all reclamation

operations. The insurance company shall give prompt notice to the 9417
permittee and the chief if the public liability insurance policy 9418
lapses for any reason, including the nonpayment of insurance 9419
premiums. Upon the lapse of the policy, the chief may suspend the 9420
permit and all other outstanding permits until proper insurance 9421
coverage is obtained. 9422

(r) The business telephone number of the applicant; 9423

(s) If the applicant seeks an authorization under division 9424
(E)(7) of this section to conduct coal mining and reclamation 9425
operations on areas to be covered by the permit that were affected 9426
by coal mining operations before August 3, 1977, that have 9427
resulted in continuing water pollution from or on the previously 9428
mined areas, such additional information pertaining to those 9429
previously mined areas as may be required by the chief, including, 9430
without limitation, maps, plans, cross sections, data necessary to 9431
determine existing water quality from or on those areas with 9432
respect to pH, iron, and manganese, and a pollution abatement plan 9433
that may improve water quality from or on those areas with respect 9434
to pH, iron, and manganese. 9435

~~(3)~~(2) Information pertaining to coal seams, test borings, 9436
core samplings, or soil samples as required by this section shall 9437
be made available by the chief to any person with an interest that 9438
is or may be adversely affected, except that information that 9439
pertains only to the analysis of the chemical and physical 9440
properties of the coal, excluding information regarding mineral or 9441
elemental content that is potentially toxic in the environment, 9442
shall be kept confidential and not made a matter of public record. 9443

~~(4)~~(3)(a) If the chief finds that the probable total annual 9444
production at all locations of any operator will not exceed three 9445
hundred thousand tons, the following activities, upon the written 9446
request of the operator in connection with a permit application, 9447
shall be performed by a qualified public or private laboratory or 9448

another public or private qualified entity designated by the 9449
chief, and the cost of the activities shall be assumed by the 9450
chief, provided that sufficient moneys for such assistance are 9451
available: 9452

(i) The determination of probable hydrologic consequences 9453
required under division (B)~~(2)~~(1)(k) of this section; 9454

(ii) The development of cross-section maps and plans required 9455
under division (B)~~(2)~~(1)(n)(i) of this section; 9456

(iii) The geologic drilling and statement of results of test 9457
borings and core samplings required under division (B)~~(2)~~(1)(o) of 9458
this section; 9459

(iv) The collection of archaeological information required 9460
under division (B)~~(2)~~(1)(m) of this section and any other 9461
archaeological and historical information required by the chief, 9462
and the preparation of plans necessitated thereby; 9463

(v) Pre-blast surveys required under division (E) of section 9464
1513.161 of the Revised Code; 9465

(vi) The collection of site-specific resource information and 9466
production of protection and enhancement plans for fish and 9467
wildlife habitats and other environmental values required by the 9468
chief under this chapter. 9469

(b) A coal operator that has received assistance under 9470
division (B)~~(4)~~(3)(a) of this section shall reimburse the chief 9471
for the cost of the services rendered, if the chief finds that the 9472
operator's actual and attributed annual production of coal for all 9473
locations exceeds three hundred thousand tons during the twelve 9474
months immediately following the date on which the operator was 9475
issued a coal mining and reclamation permit. 9476

~~(5)~~(4) Each applicant for a permit shall submit to the chief 9477
as part of the permit application a reclamation plan that meets 9478

the requirements of this chapter. 9479

~~(6)~~(5) Each applicant for a coal mining and reclamation 9480
permit shall file a copy of the application for a permit, 9481
excluding that information pertaining to the coal seam itself, for 9482
public inspection with the county recorder or an appropriate 9483
public office approved by the chief in the county where the mining 9484
is proposed to occur. 9485

~~(7)~~(6) Each applicant for a coal mining and reclamation 9486
permit shall submit to the chief as part of the permit application 9487
a blasting plan that describes the procedures and standards by 9488
which the operator will comply with section 1513.161 of the 9489
Revised Code. 9490

(C) Each reclamation plan submitted as part of a permit 9491
application shall include, in the detail necessary to demonstrate 9492
that reclamation required by this chapter can be accomplished, a 9493
statement of: 9494

(1) The identification of the lands subject to coal mining 9495
operations over the estimated life of those operations and the 9496
size, sequence, and timing of the subareas for which it is 9497
anticipated that individual permits for mining will be sought; 9498

(2) The condition of the land to be covered by the permit 9499
prior to any mining, including all of the following: 9500

(a) The uses existing at the time of the application and, if 9501
the land has a history of previous mining, the uses that preceded 9502
any mining; 9503

(b) The capability of the land prior to any mining to support 9504
a variety of uses, giving consideration to soil and foundation 9505
characteristics, topography, and vegetative cover and, if 9506
applicable, a soil survey prepared pursuant to division 9507
(B)~~(2)~~(1)(p) of this section; 9508

(c) The productivity of the land prior to mining, including 9509
appropriate classification as prime farmlands as well as the 9510
average yield of food, fiber, forage, or wood products obtained 9511
from the land under high levels of management. 9512

(3) The use that is proposed to be made of the land following 9513
reclamation, including information regarding the utility and 9514
capacity of the reclaimed land to support a variety of alternative 9515
uses, the relationship of the proposed use to existing land use 9516
policies and plans, and the comments of any owner of the land and 9517
state and local governments or agencies thereof that would have to 9518
initiate, implement, approve, or authorize the proposed use of the 9519
land following reclamation; 9520

(4) A detailed description of how the proposed postmining 9521
land use is to be achieved and the necessary support activities 9522
that may be needed to achieve the proposed land use; 9523

(5) The engineering techniques proposed to be used in mining 9524
and reclamation and a description of the major equipment; a plan 9525
for the control of surface water drainage and of water 9526
accumulation; a plan, where appropriate, for backfilling, soil 9527
stabilization, and compacting, grading, and appropriate 9528
revegetation; a plan for soil reconstruction, replacement, and 9529
stabilization, pursuant to the performance standards in section 9530
1513.16 of the Revised Code, for those food, forage, and forest 9531
lands identified in that section; and an estimate of the cost per 9532
acre of the reclamation, including a statement as to how the 9533
permittee plans to comply with each of the requirements set out in 9534
section 1513.16 of the Revised Code; 9535

(6) A description of the means by which the utilization and 9536
conservation of the solid fuel resource being recovered will be 9537
maximized so that re-affecting the land in the future can be 9538
minimized; 9539

(7) A detailed estimated timetable for the accomplishment of each major step in the reclamation plan;	9540 9541
(8) A description of the degree to which the coal mining and reclamation operations are consistent with surface owner plans and applicable state and local land use plans and programs;	9542 9543 9544
(9) The steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards;	9545 9546 9547
(10) A description of the degree to which the reclamation plan is consistent with local physical, environmental, and climatological conditions;	9548 9549 9550
(11) A description of all lands, interests in lands, or options on such interests held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the area to be covered by the permit;	9551 9552 9553 9554
(12) The results of test borings that the applicant has made at the area to be covered by the permit, or other equivalent information and data in a form satisfactory to the chief, including the location of subsurface water, and an analysis of the chemical properties, including acid forming properties of the mineral and overburden; except that information that pertains only to the analysis of the chemical and physical properties of the coal, excluding information regarding mineral or elemental contents that are potentially toxic in the environment, shall be kept confidential and not made a matter of public record;	9555 9556 9557 9558 9559 9560 9561 9562 9563 9564
(13) A detailed description of the measures to be taken during the mining and reclamation process to ensure the protection of all of the following:	9565 9566 9567
(a) The quality of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation	9568 9569

process;	9570
(b) The rights of present users to such water;	9571
(c) The quantity of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process or, where such protection of quantity cannot be assured, provision of alternative sources of water.	9572 9573 9574 9575
(14) Any other requirements the chief prescribes by rule.	9576
(D)(1) Any information required by division (C) of this section that is not on public file pursuant to this chapter shall be held in confidence by the chief.	9577 9578 9579
(2) With regard to requests for an exemption from the requirements of this chapter for coal extraction incidental to the extraction of other minerals, as described in division (H)(1)(a) of section 1513.01 of the Revised Code, confidential information includes and is limited to information concerning trade secrets or privileged commercial or financial information relating to the competitive rights of the persons intending to conduct the extraction of minerals.	9580 9581 9582 9583 9584 9585 9586 9587
(E)(1) Upon the basis of a complete mining application and reclamation plan or a revision or renewal thereof, as required by this chapter, and information obtained as a result of public notification and public hearing, if any, as provided by section 1513.071 of the Revised Code, the chief shall grant, require modification of, or deny the application for a permit in a reasonable time set by the chief and notify the applicant in writing. The applicant for a permit or revision of a permit has the burden of establishing that the application is in compliance with all the requirements of this chapter. Within ten days after the granting of a permit, the chief shall notify the boards of township trustees and county commissioners, the mayor, and the legislative authority in the township, county, and municipal	9588 9589 9590 9591 9592 9593 9594 9595 9596 9597 9598 9599 9600

corporation in which the area of land to be affected is located 9601
that a permit has been issued and shall describe the location of 9602
the land. However, failure of the chief to notify the local 9603
officials shall not affect the status of the permit. 9604

(2) No permit application or application for revision of an 9605
existing permit shall be approved unless the application 9606
affirmatively demonstrates and the chief finds in writing on the 9607
basis of the information set forth in the application or from 9608
information otherwise available, which shall be documented in the 9609
approval and made available to the applicant, all of the 9610
following: 9611

(a) The application is accurate and complete and all the 9612
requirements of this chapter have been complied with. 9613

(b) The applicant has demonstrated that the reclamation 9614
required by this chapter can be accomplished under the reclamation 9615
plan contained in the application. 9616

(c)(i) Assessment of the probable cumulative impact of all 9617
anticipated mining in the general and adjacent area on the 9618
hydrologic balance specified in division (B)~~(2)~~(1)(k) of this 9619
section has been made by the chief, and the proposed operation has 9620
been designed to prevent material damage to hydrologic balance 9621
outside the permit area. 9622

(ii) There shall be an ongoing process conducted by the chief 9623
in cooperation with other state and federal agencies to review all 9624
assessments of probable cumulative impact of coal mining in light 9625
of post-mining data and any other hydrologic information as it 9626
becomes available to determine if the assessments were realistic. 9627
The chief shall take appropriate action as indicated in the review 9628
process. 9629

(d) The area proposed to be mined is not included within an 9630
area designated unsuitable for coal mining pursuant to section 9631

1513.073 of the Revised Code or is not within an area under study 9632
for such designation in an administrative proceeding commenced 9633
pursuant to division (A)(3)(c) or (B) of section 1513.073 of the 9634
Revised Code, unless in an area as to which an administrative 9635
proceeding has commenced pursuant to division (A)(3)(c) or (B) of 9636
section 1513.073 of the Revised Code, the operator making the 9637
permit application demonstrates that, prior to January 1, 1977, 9638
the operator made substantial legal and financial commitments in 9639
relation to the operation for which a permit is sought. 9640

(e) In cases where the private mineral estate has been 9641
severed from the private surface estate, the applicant has 9642
submitted to the chief one of the following: 9643

(i) The written consent of the surface owner to the 9644
extraction of coal by strip mining methods; 9645

(ii) A conveyance that expressly grants or reserves the right 9646
to extract the coal by strip mining methods; 9647

(iii) If the conveyance does not expressly grant the right to 9648
extract coal by strip mining methods, the surface-subsurface legal 9649
relationship shall be determined under the law of this state. This 9650
chapter does not authorize the chief to adjudicate property rights 9651
disputes. 9652

(3)(a) The applicant shall file with the permit application a 9653
schedule listing all notices of violations of any law, rule, or 9654
regulation of the United States or of any department or agency 9655
thereof or of any state pertaining to air or water environmental 9656
protection incurred by the applicant in connection with any coal 9657
mining operation during the three-year period prior to the date of 9658
application. The schedule also shall indicate the final resolution 9659
of such a notice of violation. Upon receipt of an application, the 9660
chief shall provide a schedule listing all notices of violations 9661
of this chapter pertaining to air or water environmental 9662

protection incurred by the applicant during the three-year period 9663
prior to receipt of the application and the final resolution of 9664
all such notices of violation. The chief shall provide this 9665
schedule to the applicant for filing by the applicant with the 9666
application filed for public review, as required by division 9667
(B)~~(6)~~(5) of this section. When the schedule or other information 9668
available to the chief indicates that any coal mining operation 9669
owned or controlled by the applicant is currently in violation of 9670
such laws, the permit shall not be issued until the applicant 9671
submits proof that the violation has been corrected or is in the 9672
process of being corrected to the satisfaction of the regulatory 9673
authority, department, or agency that has jurisdiction over the 9674
violation and that any civil penalties owed to the state for a 9675
violation and not the subject of an appeal have been paid. No 9676
permit shall be issued to an applicant after a finding by the 9677
chief that the applicant or the operator specified in the 9678
application controls or has controlled mining operations with a 9679
demonstrated pattern of willful violations of this chapter of a 9680
nature and duration to result in irreparable damage to the 9681
environment as to indicate an intent not to comply with or a 9682
disregard of this chapter. 9683

(b) For the purposes of division (E)(3)(a) of this section, 9684
any violation resulting from an unanticipated event or condition 9685
at a surface coal mining operation on lands eligible for remining 9686
under a permit held by the person submitting an application for a 9687
coal mining permit under this section shall not prevent issuance 9688
of that permit. As used in this division, "unanticipated event or 9689
condition" means an event or condition encountered in a remining 9690
operation that was not contemplated by the applicable surface coal 9691
mining and reclamation permit. 9692

(4)(a) In addition to finding the application in compliance 9693
with division (E)(2) of this section, if the area proposed to be 9694

mined contains prime farmland as determined pursuant to division 9695
(B)~~(2)~~(1)(p) of this section, the chief, after consultation with 9696
the secretary of the United States department of agriculture and 9697
pursuant to regulations issued by the secretary of the interior 9698
with the concurrence of the secretary of agriculture, may grant a 9699
permit to mine on prime farmland if the chief finds in writing 9700
that the operator has the technological capability to restore the 9701
mined area, within a reasonable time, to equivalent or higher 9702
levels of yield as nonmined prime farmland in the surrounding area 9703
under equivalent levels of management and can meet the soil 9704
reconstruction standards in section 1513.16 of the Revised Code. 9705

(b) Division (E)(4)(a) of this section does not apply to a 9706
permit issued prior to August 3, 1977, or revisions or renewals 9707
thereof. 9708

(5) The chief shall issue an order denying a permit after 9709
finding that the applicant has misrepresented or omitted any 9710
material fact in the application for the permit. 9711

(6) The chief may issue an order denying a permit after 9712
finding that the applicant, any partner, if the applicant is a 9713
partnership, any officer, principal shareholder, or director, if 9714
the applicant is a corporation, or any other person who has a 9715
right to control or in fact controls the management of the 9716
applicant or the selection of officers, directors, or managers of 9717
the applicant has been a sole proprietor or partner, officer, 9718
director, principal shareholder, or person having the right to 9719
control or has in fact controlled the management of or the 9720
selection of officers, directors, or managers of a business entity 9721
that ever has had a coal mining license or permit issued by this 9722
or any other state or the United States suspended or revoked, ever 9723
has forfeited a coal or surface mining bond or security deposited 9724
in lieu of bond in this or any other state or with the United 9725
States, or ever has substantially or materially failed to comply 9726

with this chapter. 9727

(7) When issuing a permit under this section, the chief may 9728
authorize an applicant to conduct coal mining and reclamation 9729
operations on areas to be covered by the permit that were affected 9730
by coal mining operations before August 3, 1977, that have 9731
resulted in continuing water pollution from or on the previously 9732
mined areas for the purpose of potentially reducing the pollution 9733
loadings of pH, iron, and manganese from discharges from or on the 9734
previously mined areas. Following the chief's authorization to 9735
conduct such operations on those areas, the areas shall be 9736
designated as pollution abatement areas for the purposes of this 9737
chapter. 9738

The chief shall not grant an authorization under division 9739
(E)(7) of this section to conduct coal mining and reclamation 9740
operations on any such previously mined areas unless the applicant 9741
demonstrates to the chief's satisfaction that all of the following 9742
conditions are met: 9743

(a) The applicant's pollution abatement plan for mining and 9744
reclaiming the previously mined areas represents the best 9745
available technology economically achievable+ 9746

(b) Implementation of the plan will potentially reduce 9747
pollutant loadings of pH, iron, and manganese resulting from 9748
discharges of surface waters or ground water from or on the 9749
previously mined areas within the permit area+ 9750

(c) Implementation of the plan will not cause any additional 9751
degradation of surface water quality off the permit area with 9752
respect to pH, iron, and manganese+ 9753

(d) Implementation of the plan will not cause any additional 9754
degradation of ground water+ 9755

(e) The plan meets the requirements governing mining and 9756
reclamation of such previously mined pollution abatement areas 9757

established by the chief in rules adopted under section 1513.02 of 9758
the Revised Code+1. 9759

(f) Neither the applicant; any partner, if the applicant is a 9760
partnership; any officer, principal shareholder, or director, if 9761
the applicant is a corporation; any other person who has a right 9762
to control or in fact controls the management of the applicant or 9763
the selection of officers, directors, or managers of the 9764
applicant; nor any contractor or subcontractor of the applicant, 9765
has any of the following: 9766

(i) Responsibility or liability under this chapter or rules 9767
adopted under it as an operator for treating the discharges of 9768
water pollutants from or on the previously mined areas for which 9769
the authorization is sought; 9770

(ii) Any responsibility or liability under this chapter or 9771
rules adopted under it for reclaiming the previously mined areas 9772
for which the authorization is sought; 9773

(iii) During the eighteen months prior to submitting the 9774
permit application requesting an authorization under division 9775
(E)(7) of this section, had a coal mining and reclamation permit 9776
suspended or revoked under division (D)(3) of section 1513.02 of 9777
the Revised Code for violating this chapter or Chapter 6111. of 9778
the Revised Code or rules adopted under them with respect to water 9779
quality, effluent limitations, or surface or ground water 9780
monitoring; 9781

(iv) Ever forfeited a coal or surface mining bond or security 9782
deposited in lieu of a bond in this or any other state or with the 9783
United States. 9784

(F)(1) During the term of the permit, the permittee may 9785
submit an application for a revision of the permit, together with 9786
a revised reclamation plan, to the chief. 9787

(2) An application for a revision of a permit shall not be 9788

approved, unless the chief finds that reclamation required by this 9789
chapter can be accomplished under the revised reclamation plan. 9790
The revision shall be approved or disapproved within ninety days 9791
after receipt of a complete revision application. The chief shall 9792
establish, by rule, criteria for determining the extent to which 9793
all permit application information requirements and procedures, 9794
including notice and hearings, shall apply to the revision 9795
request, except that any revisions that propose significant 9796
alterations in the reclamation plan, at a minimum, shall be 9797
subject to notice and hearing requirements. 9798

(3) Any extensions to the area covered by the permit except 9799
incidental boundary revisions shall be made by application for a 9800
permit. 9801

(G) No transfer, assignment, or sale of the rights granted 9802
under a permit issued pursuant to this chapter shall be made 9803
without the written approval of the chief. 9804

(H) The chief, within a time limit prescribed in the chief's 9805
rules, shall review outstanding permits and may require reasonable 9806
revision or modification of a permit. A revision or modification 9807
shall be based upon a written finding and subject to notice and 9808
hearing requirements established by rule of the chief. 9809

(I)(1) If an informal conference has been held pursuant to 9810
section 1513.071 of the Revised Code, the chief shall issue and 9811
furnish the applicant for a permit, persons who participated in 9812
the informal conference, and persons who filed written objections 9813
pursuant to division (B) of section 1513.071 of the Revised Code, 9814
with the written finding of the chief granting or denying the 9815
permit in whole or in part and stating the reasons therefor within 9816
sixty days of the conference. 9817

(2) If there has been no informal conference held pursuant to 9818
section 1513.071 of the Revised Code, the chief shall notify the 9819

applicant for a permit within a reasonable time as provided by 9820
rule of the chief, taking into account the time needed for proper 9821
investigation of the site, the complexity of the permit 9822
application, whether or not a written objection to the application 9823
has been filed, and whether the application has been approved or 9824
disapproved in whole or in part. 9825

(3) If the application is approved, the permit shall be 9826
issued. If the application is disapproved, specific reasons 9827
therefor shall be set forth in the notification. Within thirty 9828
days after the applicant is notified of the final decision of the 9829
chief on the permit application, the applicant or any person with 9830
an interest that is or may be adversely affected may appeal the 9831
decision to the ~~reclamation~~ environmental review appeals 9832
commission pursuant to section 1513.13 of the Revised Code. 9833

(4) Any applicant or any person with an interest that is or 9834
may be adversely affected who has participated in the 9835
administrative proceedings as an objector and is aggrieved by the 9836
decision of the ~~reclamation~~ environmental review appeals 9837
commission, or if the commission fails to act within the time 9838
limits specified in this chapter, may appeal in accordance with 9839
section 1513.14 of the Revised Code. 9840

Sec. 1513.13. (A)(1) Any person having an interest that is or 9841
may be adversely affected by a notice of violation, order, or 9842
decision of the chief of the division of mineral resources 9843
management, other than a decision made under section 1509.06 or 9844
1509.08 of the Revised Code or a show cause order or an order that 9845
adopts a rule, or by any modification, vacation, or termination of 9846
such a notice, order, or decision, may appeal by filing a notice 9847
of appeal with the ~~reclamation~~ environmental review appeals 9848
commission created in section 3745.02 of the Revised Code for 9849
review of the notice, order, or decision within thirty days after 9850

the notice, order, or decision is served upon the person or within 9851
thirty days after its modification, vacation, or termination and 9852
by filing a copy of the notice of appeal with the chief within 9853
three days after filing the notice of appeal with the commission. 9854
The notice of appeal shall contain a copy of the notice of 9855
violation, order, or decision complained of and the grounds upon 9856
which the appeal is based. The commission has exclusive original 9857
jurisdiction to hear and decide such appeals. The filing of a 9858
notice of appeal under division (A)(1) of this section does not 9859
operate as a stay of any order, notice of violation, or decision 9860
of the chief. 9861

(2) The permittee, the chief, and other interested persons 9862
shall be given written notice of the time and place of the hearing 9863
at least five days prior thereto. The hearing shall be of record. 9864

(3) Any person authorized under this section to appeal to the 9865
commission may request an informal review by the chief or the 9866
chief's designee by filing a written request with the chief within 9867
thirty days after a notice, order, decision, modification, 9868
vacation, or termination is served upon the person. Filing of the 9869
written request shall toll the time for appeal before the 9870
commission, but shall not operate as a stay of any order, notice 9871
of violation, or decision of the chief. The chief's determination 9872
of an informal review is appealable to the commission under this 9873
section. 9874

(B) The commission shall affirm the notice of violation, 9875
order, or decision of the chief unless the commission determines 9876
that it is arbitrary, capricious, or otherwise inconsistent with 9877
law; in that case the commission may modify the notice of 9878
violation, order, or decision or vacate it and remand it to the 9879
chief for further proceedings that the commission may direct. 9880

The commission shall conduct hearings and render decisions in 9881
a timely fashion, except that all of the following apply: 9882

(1) When the appeal concerns an order for the cessation of coal mining and reclamation operations issued pursuant to division (D)(1) or (2) of section 1513.02 of the Revised Code, the commission shall issue its written decision within thirty days after the receipt of the appeal unless temporary relief has been granted by the chairperson pursuant to division (C) of this section.

(2) When the appeal concerns an application for a permit under division (I) of section 1513.07 of the Revised Code, the commission shall hold a hearing within thirty days after receipt of the notice of appeal and issue its decision within thirty days after the hearing.

(3) When the appeal concerns a decision of the chief regarding release of bond under division (F) of section 1513.16 of the Revised Code, the commission shall hold a hearing within thirty days after receipt of the notice of appeal and issue its decision within sixty days after the hearing.

~~(4) When the appeal concerns a decision of the chief regarding the location of a well in a coal bearing township under section 1509.08 of the Revised Code, the commission shall hold a hearing and issue its decision within thirty days after receipt of the notice of appeal.~~

(C) The chairperson of the commission, under conditions the chairperson prescribes, may grant temporary relief the chairperson considers appropriate pending final determination of an appeal if all of the following conditions are met:

(1) All parties to the appeal have been notified and given an opportunity for a hearing to be held in the locality of the subject site on the request for temporary relief and the opportunity to be heard on the request.

(2) The person requesting relief shows that there is a

substantial likelihood that the person will prevail on the merits. 9914

(3) The relief will not adversely affect public health or 9915
safety or cause significant imminent environmental harm to land, 9916
air, or water resources. 9917

The chairperson shall issue a decision expeditiously, except 9918
that when the applicant requests relief from an order for the 9919
cessation of coal mining and reclamation operations issued 9920
pursuant to division (D)(1) or (2) of section 1513.02 of the 9921
Revised Code, the decision shall be issued within five days after 9922
its receipt. 9923

Any party to an appeal filed with the commission who is 9924
aggrieved or adversely affected by a decision of the chairperson 9925
to grant or deny temporary relief under this section may appeal 9926
that decision to the commission. The commission may confine its 9927
review to the record developed at the hearing before the 9928
chairperson. 9929

The appeal shall be filed with the commission within thirty 9930
days after the chairperson issues the decision on the request for 9931
temporary relief. The commission shall issue a decision as 9932
expeditiously as possible, except that when the appellant requests 9933
relief from an order for the cessation of coal mining and 9934
reclamation operations issued pursuant to division (D)(1) or (2) 9935
of section 1513.02 of the Revised Code, the decision of the 9936
commission shall be issued within five days after receipt of the 9937
notice of appeal. 9938

The commission shall affirm the decision of the chairperson 9939
granting or denying temporary relief unless it determines that the 9940
decision is arbitrary, capricious, or otherwise inconsistent with 9941
law. 9942

(D) Following the issuance of an order to show cause as to 9943
why a permit should not be suspended or revoked pursuant to 9944

division (D)(3) of section 1513.02 of the Revised Code, the chief 9945
or a representative of the chief shall hold a public adjudicatory 9946
hearing after giving written notice of the time, place, and date 9947
thereof. The hearing shall be of record. 9948

Within sixty days following the public hearing, the chief 9949
shall issue and furnish to the permittee and all other parties to 9950
the hearing a written decision, and the reasons therefor, 9951
concerning suspension or revocation of the permit. If the chief 9952
revokes the permit, the permittee immediately shall cease coal 9953
mining operations on the permit area and shall complete 9954
reclamation within a period specified by the chief, or the chief 9955
shall declare as forfeited the performance bonds for the 9956
operation. 9957

(E)(1) Whenever an enforcement order or permit decision is 9958
issued under this chapter and is appealed under this section or 9959
any action is filed under division (B) of section 1513.15 or 9960
1513.39 of the Revised Code, at the request of a prevailing party, 9961
a sum equal to the aggregate amount of all costs and expenses, 9962
including attorney's fees, as determined to have been necessary 9963
and reasonably incurred by the prevailing party for or in 9964
connection with participation in the ~~enforcement~~ proceedings 9965
before the commission, the court under section 1513.15 of the 9966
Revised Code, or the chief under section 1513.39 of the Revised 9967
Code, may be awarded, as considered proper, in accordance with 9968
divisions (E)(1)(a) to (c) of this section. In no event shall 9969
attorney's fees awarded under this section exceed, for the kind 9970
and quality of services, the prevailing market rates at the time 9971
the services were furnished under division (A) of this section. A 9972
party may be entitled to costs and expenses related solely to the 9973
preparation, defense, and appeal of a petition for costs and 9974
expenses, provided that the costs and expenses are limited and 9975
proportionate to costs and expenses otherwise allowed under 9976

division (E) of this section. 9977

(a) A party, other than the permittee or the division of 9978
mineral resources management, ~~shall~~ may file a petition, ~~if any,~~ 9979
for an award of costs and expenses, including attorney's fees, 9980
with the chief, who shall review the petition. If the chief finds 9981
that the party, other than the permittee or the division, 9982
prevailed in whole or in part, made a substantial contribution to 9983
a full and fair determination of the issues, and made a 9984
contribution separate and distinct from the contribution made by 9985
any other party, the chief may award to that party ~~the party's~~ 9986
those costs and expenses, including attorney's fees that were 9987
necessary and reasonably incurred by the petitioning party for, or 9988
in connection with, participation in the proceeding before the 9989
commission. 9990

(b) ~~If a permittee who made a request under division (E)(1)~~ 9991
~~of this section demonstrates that a party other than a A permittee~~ 9992
~~who initiated an appeal under this section or participated in such~~ 9993
may file, with the chief, a request for an award to the permittee 9994
of the costs and expenses, including attorney's fees, reasonably 9995
incurred by the permittee in connection with an appeal initiated 9996
~~or participated in the appeal in bad faith and for the purpose of~~ 9997
~~harassing or embarrassing the permittee, the permittee may file a~~ 9998
~~petition with the chief~~ under this section. The chief may award to 9999
~~the permittee the~~ assess those costs and expenses reasonably 10000
~~incurred by the permittee in connection with participation in the~~ 10001
~~appeal and assess those costs and expenses~~ against the a party who 10002
initiated or participated in the appeal if the permittee 10003
demonstrates that the party initiated or participated in the 10004
appeal in bad faith and for the purpose of harassing or 10005
embarrassing the permittee. 10006

(c) The division may file, with the commission, a request for 10007
an award to the division of the costs and expenses, including 10008

attorney's fees, reasonably incurred by the division in connection 10009
with an appeal initiated under this section. The commission may 10010
assess those costs and expenses against ~~the~~ a party who initiated 10011
or participated in the appeal if the division demonstrates that 10012
the party initiated or participated in the appeal in bad faith and 10013
for the purpose of harassing or embarrassing the division. 10014

(2) ~~Whenever an~~ If a final order involving this chapter is 10015
issued by the commission as a decision under division (B) of this 10016
section or ~~as a result of any administrative proceeding under this~~ 10017
~~chapter is~~ by a court of common pleas under division (B) of 10018
section 1513.15 of the Revised Code or by the chief under section 10019
1513.39 of the Revised Code and the final order becomes the 10020
subject of judicial review, at the request of any party, a sum 10021
equal to the aggregate amount of all costs and expenses, including 10022
attorney's fees, as determined by the court to have been necessary 10023
and reasonably incurred by the party for or in connection with 10024
participation in the proceedings, may be awarded to either party, 10025
in accordance with division (E)(1) of this section, as the court, 10026
on the basis of judicial review, considers proper. 10027

Sec. 1513.131. For the purpose of conducting any public 10028
adjudicatory hearing under this chapter or Chapter 1514. of the 10029
Revised Code, the chief, of the division of mineral resources 10030
management or the ~~reclamation~~ environmental review appeals 10031
commission created in section 3745.02 of the Revised Code may 10032
require the attendance of witnesses and the production of books, 10033
records, and papers, and may, and at the request of any party, 10034
shall issue subpoenas for witnesses or subpoenas duces tecum to 10035
compel the production of any books, records, papers, or other 10036
material relevant to the inquiry, directed to the sheriff of the 10037
counties where the witnesses or materials are found, which 10038
subpoenas shall be served and returned in the same manner as 10039
subpoenas issued by courts of common pleas are served and 10040

returned. The fees and mileage of sheriffs and witnesses shall be 10041
the same as those allowed by the court of common pleas in criminal 10042
cases. 10043

In cases of disobedience or neglect of any subpoena served on 10044
any person or the refusal of any witness to testify to any matter 10045
regarding which the witness may lawfully be interrogated, the 10046
court of common pleas of the county in which such disobedience, 10047
neglect, or refusal occurs, or any judge thereof, on application 10048
of the chief or the commission or any member thereof, shall compel 10049
obedience by attachment procedures for contempt as in the case of 10050
disobedience of the requirements of a subpoena issued from the 10051
court or a refusal to testify therein. 10052

A witness at any hearing shall testify under oath or 10053
affirmation, which the chief or any member of the commission may 10054
administer. 10055

Hearing officers designated by the commission shall have the 10056
same powers and authority in conducting the hearings as granted to 10057
the commission. Whenever a hearing officer conducts a hearing, the 10058
officer shall prepare a report setting forth the hearing officer's 10059
findings of fact and conclusions of law and a recommendation of 10060
the action to be taken by the commission. The hearing officer 10061
shall file the report with the secretary of the commission and 10062
shall mail a copy by certified mail to the parties. A party may, 10063
within fourteen days after receipt of the report, serve and file 10064
written objections to the hearing officer's report with the 10065
secretary of the commission. Objections shall be specific and 10066
state with particularity the grounds therefor. Upon consideration 10067
of the objections, the commission may adopt, reject, or modify the 10068
report; hear additional evidence; return the report to the hearing 10069
officer with instructions; or hear the matter itself. 10070

Sec. 1513.14. (A) Any party aggrieved or adversely affected 10071

by a decision of the ~~reclamation~~ environmental review appeals 10072
commission that is made under this chapter or Chapter 1514. of the 10073
Revised Code may appeal to the court of appeals for the county in 10074
which the activity addressed by the decision of the commission 10075
occurred, is occurring, or will occur, which court has exclusive 10076
jurisdiction over the appeal. The appeal shall be filed within 10077
thirty days of issuance of the decision of the commission. The 10078
court shall confine its review to the record certified by the 10079
commission. The court may, upon motion, grant such temporary 10080
relief as it considers appropriate pending final disposition of 10081
the appeal if all of the following apply: 10082

(1) All parties to the appeal have been notified and given an 10083
opportunity to be heard on a request for temporary relief. 10084

(2) The person requesting the relief shows that there is a 10085
substantial likelihood that the person will prevail on the merits. 10086

(3) The relief will not adversely affect public health or 10087
safety or the health or safety of miners or cause significant 10088
imminent environmental harm to land, air, or water resources. 10089

The court shall affirm the decision of the commission unless 10090
the court determines that it is arbitrary, capricious, or 10091
otherwise inconsistent with law, in which case the court shall 10092
vacate the decision and remand to the commission for such further 10093
proceedings as it may direct. 10094

(B) Any order of the chief of the division of mineral 10095
resources management adopting a rule shall be subject to judicial 10096
review in the Franklin county court of appeals, which court has 10097
exclusive original jurisdiction to review the order. A petition 10098
for review of the order shall be filed within thirty days from the 10099
date of such order. The petition may be made by any person who 10100
participated in the rule-making proceedings and who is aggrieved 10101
by the order. The court shall confine its review to the record of 10102

the rule-making proceedings. The order shall be affirmed unless 10103
the court concludes that the order is arbitrary, capricious, or 10104
otherwise inconsistent with law, in which case the court shall 10105
vacate the order or portion thereof and remand to the chief for 10106
such further proceedings as it may direct. 10107

Sec. 1513.16. (A) Any permit issued under this chapter to 10108
conduct coal mining operations shall require that the operations 10109
meet all applicable performance standards of this chapter and such 10110
other requirements as the chief of the division of mineral 10111
resources management shall adopt by rule. General performance 10112
standards shall apply to all coal mining and reclamation 10113
operations and shall require the operator at a minimum to do all 10114
of the following: 10115

(1) Conduct coal mining operations so as to maximize the 10116
utilization and conservation of the solid fuel resource being 10117
recovered so that re-affecting the land in the future through coal 10118
mining can be minimized; 10119

(2) Restore the land affected to a condition capable of 10120
supporting the uses that it was capable of supporting prior to any 10121
mining, or higher or better uses of which there is reasonable 10122
likelihood, so long as the uses do not present any actual or 10123
probable hazard to public health or safety or pose any actual or 10124
probable threat of diminution or pollution of the waters of the 10125
state, and the permit applicants' declared proposed land uses 10126
following reclamation are not considered to be impractical or 10127
unreasonable, to be inconsistent with applicable land use policies 10128
and plans, to involve unreasonable delay in implementation, or to 10129
violate federal, state, or local law; 10130

(3) Except as provided in division (B) of this section, with 10131
respect to all coal mining operations, backfill, compact where 10132
advisable to ensure stability or to prevent leaching of toxic 10133

materials, and grade in order to restore the approximate original 10134
contour of the land with all highwalls, spoil piles, and 10135
depressions eliminated unless small depressions are needed in 10136
order to retain moisture to assist revegetation or as otherwise 10137
authorized pursuant to this chapter, provided that if the operator 10138
demonstrates that due to volumetric expansion the amount of 10139
overburden and the spoil and waste materials removed in the course 10140
of the mining operation are more than sufficient to restore the 10141
approximate original contour, the operator shall backfill, grade, 10142
and compact the excess overburden and other spoil and waste 10143
materials to attain the lowest grade, but not more than the angle 10144
of repose, and to cover all acid-forming and other toxic materials 10145
in order to achieve an ecologically sound land use compatible with 10146
the surrounding region in accordance with the approved mining 10147
plan. The overburden or spoil shall be shaped and graded in such a 10148
way as to prevent slides, erosion, and water pollution and shall 10149
be revegetated in accordance with this chapter. 10150

(4) Stabilize and protect all surface areas, including spoil 10151
piles affected by the coal mining and reclamation operation, to 10152
control erosion and attendant air and water pollution effectively; 10153

(5) Remove the topsoil from the land in a separate layer, 10154
replace it on the backfill area, or, if not utilized immediately, 10155
segregate it in a separate pile from the spoil, and when the 10156
topsoil is not replaced on a backfill area within a time short 10157
enough to avoid deterioration of the topsoil, maintain a 10158
successful cover by quick-growing plants or other means thereafter 10159
so that the topsoil is preserved from wind and water erosion, 10160
remains free of any contamination by acid or other toxic material, 10161
and is in a usable condition for sustaining vegetation when 10162
restored during reclamation. If the topsoil is of insufficient 10163
quantity or of poor quality for sustaining vegetation or if other 10164
strata can be shown to be more suitable for vegetation 10165

requirements, the operator shall remove, segregate, and preserve 10166
in a like manner such other strata as are best able to support 10167
vegetation. 10168

(6) Restore the topsoil or the best available subsoil that is 10169
best able to support vegetation; 10170

(7) For all prime farmlands as identified in division 10171
(B)~~(2)~~(1)(p) of section 1513.07 of the Revised Code to be mined 10172
and reclaimed, perform soil removal, storage, replacement, and 10173
reconstruction in accordance with specifications established by 10174
the secretary of the United States department of agriculture under 10175
the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 10176
445, 30 U.S.C.A. 1201. The operator, at a minimum, shall be 10177
required to do all of the following: 10178

(a) Segregate the A horizon of the natural soil, except where 10179
it can be shown that other available soil materials will create a 10180
final soil having a greater productive capacity, and, if not 10181
utilized immediately, stockpile this material separately from the 10182
spoil and provide needed protection from wind and water erosion or 10183
contamination by acid or other toxic material; 10184

(b) Segregate the B horizon of the natural soil, or 10185
underlying C horizons or other strata, or a combination of such 10186
horizons or other strata that are shown to be both texturally and 10187
chemically suitable for plant growth and that can be shown to be 10188
equally or more favorable for plant growth than the B horizon, in 10189
sufficient quantities to create in the regraded final soil a root 10190
zone of comparable depth and quality to that which existed in the 10191
natural soil, and, if not utilized immediately, stockpile this 10192
material separately from the spoil and provide needed protection 10193
from wind and water erosion or contamination by acid or other 10194
toxic material; 10195

(c) Replace and regrade the root zone material described in 10196

division (A)(7)(b) of this section with proper compaction and 10197
uniform depth over the regraded spoil material; 10198

(d) Redistribute and grade in a uniform manner the surface 10199
soil horizon described in division (A)(7)(a) of this section. 10200

(8) Create, if authorized in the approved mining and 10201
reclamation plan and permit, permanent impoundments of water on 10202
mining sites as part of reclamation activities only when it is 10203
adequately demonstrated by the operator that all of the following 10204
conditions will be met: 10205

(a) The size of the impoundment is adequate for its intended 10206
purposes. 10207

(b) The impoundment dam construction will be so designed as 10208
to achieve necessary stability with an adequate margin of safety 10209
compatible with that of structures constructed under the 10210
"Watershed Protection and Flood Prevention Act," 68 Stat. 666 10211
(1954), 16 U.S.C. 1001, as amended. 10212

(c) The quality of impounded water will be suitable on a 10213
permanent basis for its intended use and discharges from the 10214
impoundment will not degrade the water quality below water quality 10215
standards established pursuant to applicable federal and state law 10216
in the receiving stream. 10217

(d) The level of water will be reasonably stable. 10218

(e) Final grading will provide adequate safety and access for 10219
proposed water users. 10220

(f) The water impoundments will not result in the diminution 10221
of the quality or quantity of water utilized by adjacent or 10222
surrounding landowners for agricultural, industrial, recreational, 10223
or domestic uses. 10224

(9) Conduct any augering operation associated with strip 10225
mining in a manner to maximize recoverability of mineral reserves 10226

remaining after the operation and reclamation are complete and 10227
seal all auger holes with an impervious and noncombustible 10228
material in order to prevent drainage, except where the chief 10229
determines that the resulting impoundment of water in such auger 10230
holes may create a hazard to the environment or the public health 10231
or safety. The chief may prohibit augering if necessary to 10232
maximize the utilization, recoverability, or conservation of the 10233
solid fuel resources or to protect against adverse water quality 10234
impacts. 10235

(10) Minimize the disturbances to the prevailing hydrologic 10236
balance at the mine site and in associated offsite areas and to 10237
the quality and quantity of water in surface and ground water 10238
systems both during and after coal mining operations and during 10239
reclamation by doing all of the following: 10240

(a) Avoiding acid or other toxic mine drainage by such 10241
measures as, but not limited to: 10242

(i) Preventing or removing water from contact with toxic 10243
producing deposits; 10244

(ii) Treating drainage to reduce toxic content that adversely 10245
affects downstream water upon being released to water courses in 10246
accordance with rules adopted by the chief in accordance with 10247
section 1513.02 of the Revised Code; 10248

(iii) Casing, sealing, or otherwise managing boreholes, 10249
shafts, and wells, and keeping acid or other toxic drainage from 10250
entering ground and surface waters. 10251

(b)(i) Conducting coal mining operations so as to prevent, to 10252
the extent possible using the best technology currently available, 10253
additional contributions of suspended solids to streamflow or 10254
runoff outside the permit area, but in no event shall 10255
contributions be in excess of requirements set by applicable state 10256
or federal laws; 10257

(ii) Constructing any siltation structures pursuant to 10258
division (A)(10)(b)(i) of this section prior to commencement of 10259
coal mining operations. The structures shall be certified by 10260
persons approved by the chief to be constructed as designed and as 10261
approved in the reclamation plan. 10262

(c) Cleaning out and removing temporary or large settling 10263
ponds or other siltation structures from drainways after disturbed 10264
areas are revegetated and stabilized, and depositing the silt and 10265
debris at a site and in a manner approved by the chief; 10266

(d) Restoring recharge capacity of the mined area to 10267
approximate premining conditions; 10268

(e) Avoiding channel deepening or enlargement in operations 10269
requiring the discharge of water from mines; 10270

(f) Such other actions as the chief may prescribe. 10271

(11) With respect to surface disposal of mine wastes, 10272
tailings, coal processing wastes, and other wastes in areas other 10273
than the mine working areas or excavations, stabilize all waste 10274
piles in designated areas through construction in compacted 10275
layers, including the use of noncombustible and impervious 10276
materials if necessary, and ensure that the final contour of the 10277
waste pile will be compatible with natural surroundings and that 10278
the site can and will be stabilized and revegetated according to 10279
this chapter; 10280

(12) Refrain from coal mining within five hundred feet of 10281
active and abandoned underground mines in order to prevent 10282
breakthroughs and to protect the health or safety of miners. The 10283
chief shall permit an operator to mine near, through, or partially 10284
through an abandoned underground mine or closer than five hundred 10285
feet to an active underground mine if both of the following 10286
conditions are met: 10287

(a) The nature, timing, and sequencing of the approximate coincidence of specific strip mine activities with specific underground mine activities are approved by the chief;	10288 10289 10290
(b) The operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public.	10291 10292 10293
(13) Design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to rules adopted by the chief, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments;	10294 10295 10296 10297 10298 10299 10300
(14) Ensure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters and that contingency plans are developed to prevent sustained combustion;	10301 10302 10303 10304 10305
(15) Ensure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the coal mining operations, except that where the applicant proposes to combine strip mining operations with underground mining operations to ensure maximum practical recovery of the mineral resources, the chief may grant a variance for specific areas within the reclamation plan from the requirement that reclamation efforts proceed as contemporaneously as practicable to permit underground mining operations prior to reclamation if:	10306 10307 10308 10309 10310 10311 10312 10313 10314 10315
(a) The chief finds in writing that:	10316
(i) The applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground	10317 10318

mining operations. 10319

(ii) The proposed underground mining operations are necessary 10320
or desirable to ensure maximum practical recovery of the mineral 10321
resource and will avoid multiple disturbance of the surface. 10322

(iii) The applicant has satisfactorily demonstrated that the 10323
plan for the underground mining operations conforms to 10324
requirements for underground mining in this state and that permits 10325
necessary for the underground mining operations have been issued 10326
by the appropriate authority. 10327

(iv) The areas proposed for the variance have been shown by 10328
the applicant to be necessary for the implementing of the proposed 10329
underground mining operations. 10330

(v) No substantial adverse environmental damage, either 10331
on-site or off-site, will result from the delay in completion of 10332
reclamation as required by this chapter. 10333

(vi) Provisions for the off-site storage of spoil will comply 10334
with division (A)(21) of this section. 10335

(b) The chief has adopted specific rules to govern the 10336
granting of such variances in accordance with this division and 10337
has imposed such additional requirements as the chief considers 10338
necessary. 10339

(c) Variances granted under this division shall be reviewed 10340
by the chief not more than three years from the date of issuance 10341
of the permit. 10342

(d) Liability under the bond filed by the applicant with the 10343
chief pursuant to section 1513.08 of the Revised Code shall be for 10344
the duration of the underground mining operations and until the 10345
requirements of this section and section 1513.08 of the Revised 10346
Code have been fully complied with. 10347

(16) Ensure that the construction, maintenance, and 10348

postmining conditions of access roads into and across the site of 10349
operations will control or prevent erosion and siltation, 10350
pollution of water, and damage to fish or wildlife or their 10351
habitat, or to public or private property; 10352

(17) Refrain from the construction of roads or other access 10353
ways up a stream bed or drainage channel or in such proximity to 10354
the channel as to seriously alter the normal flow of water; 10355

(18) Establish, on the regraded areas and all other lands 10356
affected, a diverse, effective, and permanent vegetative cover of 10357
the same seasonal variety native to the area of land to be 10358
affected and capable of self-regeneration and plant succession at 10359
least equal in extent of cover to the natural vegetation of the 10360
area, except that introduced species may be used in the 10361
revegetation process where desirable and necessary to achieve the 10362
approved postmining land use plan; 10363

(19)(a) Assume the responsibility for successful 10364
revegetation, as required by division (A)(18) of this section, for 10365
a period of five full years after the last year of augmented 10366
seeding, fertilizing, irrigation, or other work in order to ensure 10367
compliance with that division, except that when the chief approves 10368
a long-term intensive agricultural postmining land use, the 10369
applicable five-year period of responsibility for revegetation 10370
shall commence at the date of initial planting for that long-term 10371
intensive agricultural postmining land use, and except that when 10372
the chief issues a written finding approving a long-term intensive 10373
agricultural postmining land use as part of the mining and 10374
reclamation plan, the chief may grant an exception to division 10375
(A)(18) of this section; 10376

(b) On lands eligible for remining, assume the responsibility 10377
for successful revegetation, as required by division (A)(18) of 10378
this section, for a period of two full years after the last year 10379
of augmented seeding, fertilizing, irrigation, or other work in 10380

order to ensure compliance with that division. 10381

(20) Protect off-site areas from slides or damage occurring 10382
during the coal mining and reclamation operations and not deposit 10383
spoil material or locate any part of the operations or waste 10384
accumulations outside the permit area; 10385

(21) Place all excess spoil material resulting from coal 10386
mining and reclamation operations in such a manner that all of the 10387
following apply: 10388

(a) Spoil is transported and placed in a controlled manner in 10389
position for concurrent compaction and in such a way as to ensure 10390
mass stability and to prevent mass movement. 10391

(b) The areas of disposal are within the bonded permit areas. 10392
All organic matter shall be removed immediately prior to spoil 10393
placement except in the zoned concept method. 10394

(c) Appropriate surface and internal drainage systems and 10395
diversion ditches are used so as to prevent spoil erosion and mass 10396
movement. 10397

(d) The disposal area does not contain springs, natural 10398
watercourses, or wet weather seeps unless lateral drains are 10399
constructed from the wet areas to the main underdrains in such a 10400
manner that filtration of the water into the spoil pile will be 10401
prevented unless the zoned concept method is used. 10402

(e) If placed on a slope, the spoil is placed upon the most 10403
moderate slope among those slopes upon which, in the judgment of 10404
the chief, the spoil could be placed in compliance with all the 10405
requirements of this chapter and is placed, where possible, upon, 10406
or above, a natural terrace, bench, or berm if that placement 10407
provides additional stability and prevents mass movement. 10408

(f) Where the toe of the spoil rests on a downslope, a rock 10409
toe buttress of sufficient size to prevent mass movement is 10410

constructed.	10411
(g) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses.	10412 10413
(h) Design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards.	10414 10415 10416
(i) All other provisions of this chapter are met.	10417
(22) Meet such other criteria as are necessary to achieve reclamation in accordance with the purpose of this chapter, taking into consideration the physical, climatological, and other characteristics of the site;	10418 10419 10420 10421
(23) To the extent possible, using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable;	10422 10423 10424 10425
(24) Provide for an undisturbed natural barrier beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such distance as the chief shall determine to be retained in place as a barrier to slides and erosion.	10426 10427 10428 10429
(B)(1) The chief may permit mining operations for the purposes set forth in division (B)(3) of this section.	10430 10431
(2) When an applicant meets the requirements of divisions (B)(3) and (4) of this section, a permit without regard to the requirement to restore to approximate original contour known as mountain top removal set forth in divisions (A)(3) or (C)(2) and (3) of this section may be granted for the mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill, except as provided in division (B)(4)(a) of this section, by removing all of the overburden and creating a level plateau or a	10432 10433 10434 10435 10436 10437 10438 10439 10440

gently rolling contour with no highwalls remaining, and capable of supporting postmining uses in accordance with this division.

(3) In cases where an industrial, commercial, agricultural, residential, or public facility use, including recreational facilities, is proposed for the postmining use of the affected land, the chief may grant a permit for a mining operation of the nature described in division (B)(2) of this section when all of the following apply:

(a) After consultation with the appropriate land use planning agencies, if any, the proposed postmining land use is considered to constitute an equal or better economic or public use of the affected land, as compared with premining use.

(b) The applicant presents specific plans for the proposed postmining land use and appropriate assurances that the use will be all of the following:

(i) Compatible with adjacent land uses;

(ii) Obtainable according to data regarding expected need and market;

(iii) Assured of investment in necessary public facilities;

(iv) Supported by commitments from public agencies where appropriate;

(v) Practicable with respect to private financial capability for completion of the proposed use;

(vi) Planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use;

(vii) Designed by a registered engineer in conformity with professional standards established to ensure the stability, drainage, and configuration necessary for the intended use of the site.

(c) The proposed use is consistent with adjacent land uses and existing state and local land use plans and programs. 10471
10472

(d) The chief provides the governing body of the unit of general-purpose local government in which the land is located, and any state or federal agency that the chief, in the chief's discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use. 10473
10474
10475
10476
10477
10478

(e) All other requirements of this chapter will be met. 10479

(4) In granting a permit pursuant to this division, the chief shall require that each of the following is met: 10480
10481

(a) The toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion. 10482
10483
10484

(b) The reclaimed area is stable. 10485

(c) The resulting plateau or rolling contour drains inward from the outslopes except at specified points. 10486
10487

(d) No damage will be done to natural watercourses. 10488

(e) Spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use, except that all excess spoil material not retained on the mountaintop bench shall be placed in accordance with division (A)(21) of this section. 10489
10490
10491
10492
10493

(f) Stability of the spoil retained on the mountaintop bench is ensured and the other requirements of this chapter are met. 10494
10495

(5) The chief shall adopt specific rules to govern the granting of permits in accordance with divisions (B)(1) to (4) of this section and may impose such additional requirements as the chief considers necessary. 10496
10497
10498
10499

(6) All permits granted under divisions (B)(1) to (4) of this section shall be reviewed not more than three years from the date of issuance of the permit unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.

(C) All of the following performance standards apply to steep-slope coal mining and are in addition to those general performance standards required by this section, except that this division does not apply to those situations in which an operator is mining on flat or gently rolling terrain on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area, or where an operator is in compliance with division (B) of this section:

(1) The operator shall ensure that when performing coal mining on steep slopes, no debris, abandoned or disabled equipment, spoil material, or waste mineral matter is placed on the downslope below the bench or mining cut. Spoil material in excess of that required for the reconstruction of the approximate original contour under division (A)(3) or (C)(2) of this section shall be permanently stored pursuant to division (A)(21) of this section.

(2) The operator shall complete backfilling with spoil material to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.

(3) The operator shall not disturb land above the top of the highwall unless the chief finds that the disturbance will facilitate compliance with the environmental protection standards of this section, except that any such disturbance involving land above the highwall shall be limited to that amount of land

necessary to facilitate compliance. 10531

(D)(1) The chief may permit variances for the purposes set 10532
forth in division (D)(3) of this section, provided that the 10533
watershed control of the area is improved and that complete 10534
backfilling with spoil material shall be required to cover 10535
completely the highwall, which material will maintain stability 10536
following mining and reclamation. 10537

(2) Where an applicant meets the requirements of divisions 10538
(D)(3) and (4) of this section, a variance from the requirement to 10539
restore to approximate original contour set forth in division 10540
(C)(2) of this section may be granted for the mining of coal when 10541
the owner of the surface knowingly requests in writing, as a part 10542
of the permit application, that such a variance be granted so as 10543
to render the land, after reclamation, suitable for an industrial, 10544
commercial, residential, or public use, including recreational 10545
facilities, in accordance with divisions (D)(3) and (4) of this 10546
section. 10547

(3) A variance pursuant to division (D)(2) of this section 10548
may be granted if: 10549

(a) After consultation with the appropriate land use planning 10550
agencies, if any, the potential use of the affected land is 10551
considered to constitute an equal or better economic or public 10552
use. 10553

(b) The postmining land condition is designed and certified 10554
by a registered professional engineer in conformity with 10555
professional standards established to ensure the stability, 10556
drainage, and configuration necessary for the intended use of the 10557
site. 10558

(c) After approval of the appropriate state environmental 10559
agencies, the watershed of the affected land is considered to be 10560
improved. 10561

(4) In granting a variance pursuant to division (D) of this section, the chief shall require that only such amount of spoil will be placed off the mine bench as is necessary to achieve the planned postmining land use, ensure stability of the spoil retained on the bench, and meet all other requirements of this chapter. All spoil placement off the mine bench shall comply with division (A)(21) of this section.

(5) The chief shall adopt specific rules to govern the granting of variances under division (D) of this section and may impose such additional requirements as the chief considers necessary.

(6) All variances granted under division (D) of this section shall be reviewed not more than three years from the date of issuance of the permit unless the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the reclamation plan.

(E) The chief shall establish standards and criteria regulating the design, location, construction, operation, maintenance, enlargement, modification, removal, and abandonment of new and existing coal mine waste piles referred to in division (A)(13) of this section and division (A)(5) of section 1513.35 of the Revised Code. The standards and criteria shall conform to the standards and criteria used by the chief of the United States army corps of engineers to ensure that flood control structures are safe and effectively perform their intended function. In addition to engineering and other technical specifications, the standards and criteria developed pursuant to this division shall include provisions for review and approval of plans and specifications prior to construction, enlargement, modification, removal, or abandonment; performance of periodic inspections during construction; issuance of certificates of approval upon completion of construction; performance of periodic safety inspections; and

issuance of notices for required remedial or maintenance work. 10594

(F)(1) The permittee may file a request with the chief for 10595
release of a part of a performance bond or deposit under division 10596
(F)(3) of this section. Within thirty days after any request for 10597
bond or deposit release under this section has been filed with the 10598
chief, the operator shall submit a copy of an advertisement placed 10599
at least once a week for four successive weeks in a newspaper of 10600
general circulation in the locality of the coal mining operation. 10601
The advertisement shall be considered part of any bond release 10602
application and shall contain a notification of the precise 10603
location of the land affected, the number of acres, the permit 10604
number and the date approved, the amount of the bond filed and the 10605
portion sought to be released, the type and appropriate dates of 10606
reclamation work performed, and a description of the results 10607
achieved as they relate to the operator's approved reclamation 10608
plan and, if applicable, the operator's pollution abatement plan. 10609
In addition, as part of any bond release application, the 10610
applicant shall submit copies of the letters sent to adjoining 10611
property owners, local governmental bodies, planning agencies, and 10612
sewage and water treatment authorities or water companies in the 10613
locality in which the coal mining and reclamation activities took 10614
place, notifying them of the applicant's intention to seek release 10615
from the bond. 10616

(2) Upon receipt of a copy of the advertisement and request 10617
for release of a bond or deposit under division (F)(3)(c) of this 10618
section, the chief, within thirty days, shall conduct an 10619
inspection and evaluation of the reclamation work involved. The 10620
evaluation shall consider, among other things, the degree of 10621
difficulty to complete any remaining reclamation, whether 10622
pollution of surface and subsurface water is occurring, the 10623
probability of continuation or future occurrence of the pollution, 10624
and the estimated cost of abating the pollution. The chief shall 10625

notify the permittee in writing of the decision to release or not 10626
to release all or part of the performance bond or deposit within 10627
sixty days after the filing of the request if no public hearing is 10628
held pursuant to division (F)(6) of this section or, if there has 10629
been a public hearing held pursuant to division (F)(6) of this 10630
section, within thirty days thereafter. 10631

(3) The chief may release the bond or deposit if the 10632
reclamation covered by the bond or deposit or portion thereof has 10633
been accomplished as required by this chapter and rules adopted 10634
under it according to the following schedule: 10635

(a) When the operator completes the backfilling, regrading, 10636
and drainage control of a bonded area in accordance with the 10637
approved reclamation plan, and, if the area covered by the bond or 10638
deposit is one for which an authorization was made under division 10639
(E)(7) of section 1513.07 of the Revised Code, the operator has 10640
complied with the approved pollution abatement plan and all 10641
additional requirements established by the chief in rules adopted 10642
under section 1513.02 of the Revised Code governing coal mining 10643
and reclamation operations on pollution abatement areas, the chief 10644
shall grant a release of fifty per cent of the bond or deposit for 10645
the applicable permit area. 10646

(b) After resoiling and revegetation have been established on 10647
the regraded mined lands in accordance with the approved 10648
reclamation plan, the chief shall grant a release in an amount not 10649
exceeding thirty-five per cent of the original bond or deposit for 10650
all or part of the affected area under the permit. When 10651
determining the amount of bond to be released after successful 10652
revegetation has been established, the chief shall retain that 10653
amount of bond for the revegetated area that would be sufficient 10654
for a third party to cover the cost of reestablishing revegetation 10655
for the period specified for operator responsibility in this 10656
section for reestablishing revegetation. No part of the bond or 10657

deposit shall be released under this division so long as the lands 10658
to which the release would be applicable are contributing 10659
suspended solids to streamflow or runoff outside the permit area 10660
in excess of the requirements of this section or until soil 10661
productivity for prime farmlands has returned to equivalent levels 10662
of yield as nonmined land of the same soil type in the surrounding 10663
area under equivalent management practices as determined from the 10664
soil survey performed pursuant to section 1513.07 of the Revised 10665
Code. If the area covered by the bond or deposit is one for which 10666
an authorization was made under division (E)(7) of section 1513.07 10667
of the Revised Code, no part of the bond or deposit shall be 10668
released under this division until the operator has complied with 10669
the approved pollution abatement plan and all additional 10670
requirements established by the chief in rules adopted under 10671
section 1513.02 of the Revised Code governing coal mining and 10672
reclamation operations on pollution abatement areas. Where a silt 10673
dam is to be retained as a permanent impoundment pursuant to 10674
division (A)(10) of this section, the portion of bond may be 10675
released under this division so long as provisions for sound 10676
future maintenance by the operator or the landowner have been made 10677
with the chief. 10678

(c) When the operator has completed successfully all coal 10679
mining and reclamation activities, including, if applicable, all 10680
additional requirements established in the pollution abatement 10681
plan approved under division (E)(7) of section 1513.07 of the 10682
Revised Code and all additional requirements established by the 10683
chief in rules adopted under section 1513.02 of the Revised Code 10684
governing coal mining and reclamation operations on pollution 10685
abatement areas, the chief shall release all or any of the 10686
remaining portion of the bond or deposit for all or part of the 10687
affected area under a permit, but not before the expiration of the 10688
period specified for operator responsibility in this section, 10689
except that the chief may adopt rules for a variance to the 10690

operator period of responsibility considering vegetation success 10691
and probability of continued growth and consent of the landowner, 10692
provided that no bond shall be fully released until all 10693
reclamation requirements of this chapter are fully met. 10694

(4) If the chief disapproves the application for release of 10695
the bond or deposit or portion thereof, the chief shall notify the 10696
permittee, in writing, stating the reasons for disapproval and 10697
recommending corrective actions necessary to secure the release, 10698
and allowing the opportunity for a public adjudicatory hearing. 10699

(5) When any application for total or partial bond release is 10700
filed with the chief under this section, the chief shall notify 10701
the municipal corporation in which the coal mining operation is 10702
located by certified mail at least thirty days prior to the 10703
release of all or a portion of the bond. 10704

(6) A person with a valid legal interest that might be 10705
adversely affected by release of a bond under this section or the 10706
responsible officer or head of any federal, state, or local 10707
government agency that has jurisdiction by law or special 10708
expertise with respect to any environmental, social, or economic 10709
impact involved in the operation or is authorized to develop and 10710
enforce environmental standards with respect to such operations 10711
may file written objections to the proposed release from the bond 10712
with the chief within thirty days after the last publication of 10713
the notice required by division (F)(1) of this section. If written 10714
objections are filed and an informal conference is requested, the 10715
chief shall inform all interested parties of the time and place of 10716
the conference. The date, time, and location of the informal 10717
conference shall be advertised by the chief in a newspaper of 10718
general circulation in the locality of the coal mining operation 10719
proposed for bond release for at least once a week for two 10720
consecutive weeks. The informal conference shall be held in the 10721
locality of the coal mining operation proposed for bond release or 10722

in Franklin county, at the option of the objector, within thirty 10723
days after the request for the conference. An electronic or 10724
stenographic record shall be made of the conference proceeding 10725
unless waived by all parties. The record shall be maintained and 10726
shall be accessible to the parties until final release of the 10727
performance bond at issue. In the event all parties requesting the 10728
informal conference stipulate agreement prior to the requested 10729
informal conference and withdraw their request, the informal 10730
conference need not be held. 10731

(7) If an informal conference has been held pursuant to 10732
division (F)(6) of this section, the chief shall issue and furnish 10733
the applicant and persons who participated in the conference with 10734
the written decision regarding the release within sixty days after 10735
the conference. Within thirty days after notification of the final 10736
decision of the chief regarding the bond release, the applicant or 10737
any person with an interest that is or may be adversely affected 10738
by the decision may appeal the decision to the ~~reclamation~~ 10739
environmental review appeals commission pursuant to section 10740
1513.13 of the Revised Code. 10741

(G) The chief shall adopt rules governing the criteria for 10742
forfeiture of bond, the method of determining the forfeited 10743
amount, and the procedures to be followed in the event of 10744
forfeiture. Cash received as the result of such forfeiture is the 10745
property of the state. 10746

Sec. 1514.021. (A) A permit holder who wishes to continue 10747
surface or in-stream mining operations after the expiration date 10748
of the existing permit or renewal permit shall file with the chief 10749
of the division of mineral resources management an application for 10750
renewal of a surface or in-stream mining permit or renewal permit 10751
at least ninety days before the expiration date of the existing 10752
permit or renewal permit. The application shall be upon the form 10753

that the chief prescribes and provides and shall be accompanied by 10754
a permit renewal fee. The amount of the fee for renewal of a 10755
surface mining permit or renewal permit shall be one thousand 10756
dollars, and the amount of the fee for renewal of an in-stream 10757
mining permit or renewal permit shall be five hundred dollars. 10758

(B) Upon receipt of an application for renewal and the permit 10759
renewal fee under division (A) of this section, the chief shall 10760
notify the applicant to submit a map that is a composite of the 10761
information required to be contained in the most recent annual 10762
report map under section 1514.03 of the Revised Code and of all 10763
surface or in-stream mining and reclamation activities conducted 10764
under the existing permit or renewal permit; the annual report 10765
required under section 1514.03 of the Revised Code; in the case of 10766
an applicant proposing a significant change to the plan of mining 10767
and reclamation, as "significant" is defined by rule, a copy of 10768
the advertisement that the applicant is required to have published 10769
in accordance with section 1514.022 of the Revised Code; and 10770
additional maps, plans, and revised or updated information that 10771
the chief determines to be necessary for permit renewal. Within 10772
sixty days after receipt of this notification, the applicant shall 10773
submit all the required information to the chief. 10774

(C)(1) Upon receipt of the information required under 10775
division (B) of this section and except as otherwise provided in 10776
division (C)(2) of this section, the chief shall approve the 10777
application for renewal and issue an order granting a renewal 10778
permit unless the chief finds that any of the following applies: 10779

(a) The permit holder's operation is not in substantial or 10780
material compliance with this chapter, rules adopted and orders 10781
issued under it, and the plan of mining and reclamation under the 10782
existing permit or renewal permit. 10783

(b) The permit holder has not provided evidence that a 10784
performance bond filed under section 1514.04 of the Revised Code 10785

applicable to lands affected under the existing permit or renewal 10786
permit will remain effective until released under section 1514.05 10787
of the Revised Code. 10788

(c) The permit holder, any partner if the applicant is a 10789
partnership, any officer or director if the applicant is a 10790
corporation, or any other person who has a right to control or in 10791
fact controls the management of the applicant or the selection of 10792
officers, directors, or managers of the applicant has failed 10793
substantially or materially to comply or continues to fail to 10794
comply with this chapter as provided in section 1514.02 of the 10795
Revised Code. 10796

(2) If the application for renewal proposes significant 10797
changes to the plan of mining and reclamation, as "significant" is 10798
defined by rule, the chief may, but is not required to, approve 10799
the application for renewal. 10800

(D) Within sixty days after receiving the information and 10801
permit renewal fees required under divisions (A) and (B) of this 10802
section, the chief shall approve the application for renewal and 10803
issue an order granting a renewal permit, issue an order denying 10804
the application, or notify the applicant that the time limit for 10805
issuing such an order has been extended. This extension of time 10806
shall not exceed sixty days. 10807

(E) If an applicant for a renewal permit has complied with 10808
division (A) of this section, the applicant may continue surface 10809
or in-stream mining operations under the existing permit or 10810
renewal permit after its expiration date until the sixty-day 10811
period for filing the information required by the chief under 10812
division (B) of this section has expired or until the chief issues 10813
an order under division (D) of this section denying the renewal 10814
permit. 10815

(F) A permit holder who fails to submit an application and 10816

required permit renewal fees within the time prescribed by 10817
division (A) of this section shall cease surface or in-stream 10818
mining operations on the expiration date of the existing permit or 10819
renewal permit. If such a permit holder then submits an 10820
application for renewal and the permit renewal fees otherwise 10821
required by division (A) of this section on or before the 10822
thirtieth day after the expiration date of the expired permit or 10823
renewal permit and provides the information required by the chief 10824
under division (B) of this section within sixty days after being 10825
notified of the information required under that division, the 10826
permit holder need not submit the final map and report required by 10827
section 1514.03 of the Revised Code until the later of thirty days 10828
after the chief issues an order denying the application for 10829
renewal or thirty days after the chief's order is affirmed upon 10830
appeal under section 1513.13 or 1513.14 of the Revised Code. An 10831
applicant under this division who fails to provide the information 10832
required by the chief under division (B) of this section within 10833
the prescribed time period shall submit the final map and report 10834
required by section 1514.03 of the Revised Code within thirty days 10835
after the expiration of that prescribed period. 10836

(G) If the chief issues an order denying an application for 10837
renewal of a permit or renewal permit after the expiration date of 10838
the permit, the permit holder shall cease surface or in-stream 10839
mining operations immediately and, within thirty days after the 10840
issuance of the order, shall submit the final report and map 10841
required under section 1514.03 of the Revised Code. The chief 10842
shall state the reasons for denial in the order denying renewal of 10843
the application. An applicant may appeal the chief's order denying 10844
the renewal under section 1513.13 of the Revised Code and may 10845
continue surface or in-stream mining and reclamation operations 10846
under the expired permit until the ~~reclamation~~ environmental 10847
review appeals commission affirms the chief's order under that 10848
section and, if the applicant elects to appeal the order of the 10849

commission under section 1513.14 of the Revised Code, until the court of appeals affirms the order.

(H) The approval of an application for renewal under this section authorizes the continuation of an existing surface mining permit or renewal permit for a term of fifteen years from the expiration date of the existing permit.

The approval of an application for renewal under this section authorizes the continuation of an existing in-stream mining permit or renewal permit for a term of two years from the expiration date of the existing permit.

(I) Any renewal permit is subject to all the requirements of this chapter and rules adopted under it.

Sec. 1514.071. (A) In addition to any other penalties established under this chapter, the chief of the division of mineral resources management may assess a civil penalty against any person who fails to comply with an order issued by the chief under section 1514.07 of the Revised Code by the date specified in the order or as subsequently extended by the chief.

(B) Civil penalties assessed under this section shall not exceed one thousand dollars for each occurrence of noncompliance with an order. Each day of continuing noncompliance, up to a maximum of thirty days, may be deemed a separate occurrence for purposes of penalty assessments. In determining the amount of the assessment, the chief shall consider the seriousness of the noncompliance, the effect of the noncompliance, and the operator's history of noncompliance.

(C) Upon issuance of a notice of noncompliance with an order, the chief shall inform the person to whom the notice of noncompliance is issued of the amount of any civil penalty to be assessed and provide an opportunity for an adjudicatory hearing

with the ~~reclamation~~ environmental review appeals commission 10880
pursuant to section ~~1514.09~~ 1513.13 of the Revised Code. The 10881
person charged with the penalty shall have thirty days from 10882
receipt of the assessment to pay the penalty in full or, if the 10883
person wishes to contest the amount of the penalty, file a 10884
petition for review of the assessment with the commission pursuant 10885
to section ~~1514.09~~ 1513.13 of the Revised Code and forward the 10886
amount of the penalty to the secretary of the commission as 10887
required by this division. Failure to forward the money to the 10888
secretary within thirty days after the chief informs the person of 10889
the amount of the penalty shall result in a waiver of all legal 10890
rights to contest the amount of the penalty. 10891

If, after a hearing, the commission affirms or modifies the 10892
amount of the penalty, the person charged with the penalty shall 10893
have thirty days after receipt of the written decision to file an 10894
appeal from the commission's order in accordance with section 10895
~~1514.09~~ 1513.14 of the Revised Code. 10896

At the time that the petition for review of the assessment is 10897
filed with the secretary, the person shall forward the amount of 10898
the penalty to the secretary for placement in the reclamation 10899
penalty fund created in division (F)(3) of section 1513.02 of the 10900
Revised Code. Pursuant to administrative or judicial review of the 10901
penalty, the secretary shall do either of the following: 10902

(1) If it is determined that the amount of the penalty should 10903
be reduced, within thirty days, remit the appropriate amount of 10904
the penalty to the person, with interest, and forward any balance 10905
of the penalty, with interest, to the chief for deposit in the 10906
surface mining fund created in section 1514.06 of the Revised Code 10907
for reclamation of abandoned surface or in-stream mining 10908
operations in the state; 10909

(2) If the penalty was not reduced, forward the entire 10910
penalty, with interest, to the chief for deposit in the surface 10911

mining fund for reclamation of abandoned surface or in-stream 10912
mining operations in the state. 10913

(D) Civil penalties owed under this section may be recovered 10914
in a civil action brought by the attorney general upon the request 10915
of the chief. 10916

Sec. 1514.09. ~~The reclamation~~ In accordance with procedures 10917
established under this chapter and Chapter 1513. of the Revised 10918
Code, the environmental review appeals commission established 10919
~~pursuant to in~~ section 1513.05 3745.02 of the Revised Code shall 10920
~~serve as the reclamation commission pursuant to this chapter.~~ 10921
~~However, whenever the commission is considering any appeal~~ 10922
~~pertaining to surface or in stream mining, as distinguished from~~ 10923
~~coal strip mining, the member representing the coal strip mine~~ 10924
~~operators shall be replaced by a person who, by reason of the~~ 10925
~~person's previous vocation, employment, or affiliations, can be~~ 10926
~~classed as a representative of surface or in stream mine~~ 10927
~~operators, as applicable. The appointment of that person shall be~~ 10928
~~made in accordance with section 1513.05 of the Revised Code, and~~ 10929
~~the person's term shall be concurrent with that of the~~ 10930
~~representative of the coal strip mine operators~~ consider appeals 10931
of actions of the chief of the division of mineral resources 10932
management under this chapter. 10933

No party to an appeal brought under this section shall be 10934
eligible for an award of attorney's fees, costs, or expenses from 10935
the commission or any court. 10936

~~Notwithstanding section 1513.14 of the Revised Code, appeals~~ 10937
~~from an order of the commission pertaining to surface or in stream~~ 10938
~~mining may be taken to the court of common pleas of the county in~~ 10939
~~which the operation is located, or to the court of common pleas of~~ 10940
~~Franklin county.~~ 10941

Sec. 1514.10. No person shall: 10942

(A)(1) Engage in surface mining without a permit; 10943

(2) Engage in in-stream mining or conduct an in-stream mining 10944
operation without an in-stream mining permit issued by the chief 10945
of the division of mineral resources management. A person who, on 10946
~~the effective date of this amendment~~ March 15, 2002, holds a valid 10947
permit to conduct in-stream mining that is issued under section 10 10948
of the "Rivers and Harbors Appropriation Act of 1899," 30 Stat. 10949
1151, 33 U.S.C. 403, as amended, shall not be required to obtain 10950
an in-stream mining permit from the chief under this chapter until 10951
the existing permit expires. 10952

(B) Exceed the limits of a surface or in-stream mining permit 10953
or amendment to a permit by mining land contiguous to an area of 10954
land affected under a permit or amendment, which contiguous land 10955
is not under a permit or amendment; 10956

(C) Purposely misrepresent or omit any material fact in an 10957
application for a surface or in-stream mining permit or amendment, 10958
an annual or final report, or any hearing or investigation 10959
conducted by the chief or the ~~reclamation~~ environmental review 10960
appeals commission; 10961

(D) Fail to perform any measure set forth in the approved 10962
plan of mining and reclamation that is necessary to prevent damage 10963
to adjoining property or to achieve a performance standard 10964
required in division (A)(10) of section 1514.02 of the Revised 10965
Code, or violate any other requirement of this chapter, a rule 10966
adopted thereunder, or an order of the chief; 10967

(E) Conduct surface excavations of minerals within any of the 10968
following: 10969

(1) One hundred twenty feet horizontal distance outward from 10970
the highwater mark on each bank of an area designated as a wild, 10971

scenic, or recreational river area under sections 1517.14 to 10972
1517.18 of the Revised Code or of a portion of a river designated 10973
as a component of the national wild and scenic river system under 10974
the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 10975
1274, as amended; 10976

(2) Seventy-five feet horizontal distance outward from the 10977
highwater mark on each bank of a watercourse that drains a surface 10978
area of more than one hundred square miles; 10979

(3) Fifty feet horizontal distance outward from the highwater 10980
mark on each bank of a watercourse that drains a surface area of 10981
more than twenty-five square miles, but fewer than one hundred 10982
square miles unless a variance is obtained under rules adopted by 10983
the chief. 10984

(F) Conduct any surface mining activity within any of the 10985
following: 10986

(1) Seventy-five feet horizontal distance outward from the 10987
highwater mark on each bank of an area designated as a wild, 10988
scenic, or recreational river area under sections 1517.14 to 10989
1517.18 of the Revised Code or of a portion of a river designated 10990
as a component of the national wild and scenic river system under 10991
the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 10992
1274, as amended; 10993

(2) Seventy-five feet horizontal distance outward from the 10994
highwater mark on each bank of a watercourse that drains a surface 10995
area of more than one hundred square miles; 10996

(3) Fifty feet horizontal distance outward from the highwater 10997
mark on each bank of a watercourse that drains a surface area of 10998
more than twenty-five square miles, but fewer than one hundred 10999
square miles unless a variance is obtained under rules adopted by 11000
the chief. 11001

A person who has been issued a surface mining permit prior to 11002

~~the effective date of this amendment~~ March 15, 2002, may continue 11003
to operate under that permit and shall not be subject to the 11004
prohibitions established in divisions (E) and (F) of this section 11005
until the permit is renewed. 11006

The number of square miles of surface area that a watercourse 11007
drains shall be determined by consulting the "gazetteer of Ohio 11008
streams," which is a portion of the Ohio water plan inventory 11009
published in 1960 by the division of water in the department of 11010
natural resources, or its successor, if any. 11011

(G) Engage in any part of a process that is followed in the 11012
production of minerals from the bottom of the channel of a 11013
watercourse in any of the following circumstances or areas: 11014

(1) In an area designated as a wild, scenic, or recreational 11015
river area under sections 1517.14 to 1517.18 of the Revised Code, 11016
in a portion of a river designated as a component of the national 11017
wild and scenic river system under the "Wild and Scenic Rivers 11018
Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended, or within 11019
one-half mile upstream of any portion of such an area or 11020
component; 11021

(2) During periods other than periods of low flow, as 11022
determined by rules adopted under section 1514.08 of the Revised 11023
Code; 11024

(3) During critical fish or mussel spawning seasons as 11025
determined by the chief of the division of wildlife under Chapter 11026
1531. of the Revised Code and rules adopted under it; 11027

(4) In an area known to possess critical spawning habitat for 11028
a species of fish or mussel that is on the federal endangered 11029
species list established in accordance with the "Endangered 11030
Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531-1543, as 11031
amended, or the state endangered species list established in rules 11032
adopted under section 1531.25 of the Revised Code. 11033

Division (G) of this section does not apply to the activities 11034
described in divisions (M)(1) and (2) of section 1514.01 of the 11035
Revised Code. 11036

Sec. 1519.05. (A) As used in this section, "local political 11037
subdivision" and "nonprofit organization" have the same meanings 11038
as in section 164.20 of the Revised Code. 11039

(B) There is hereby created in the state treasury the clean 11040
Ohio trail fund. Twelve and one-half per cent of the net proceeds 11041
of obligations issued and sold pursuant to sections 151.01 and 11042
151.09 of the Revised Code shall be deposited into the fund. 11043

Investment earnings of the fund shall be credited to the 11044
fund. ~~For two years after the effective date of this section,~~ 11045
~~investment earnings credited to the fund~~ and may be used to pay 11046
costs incurred by the director of natural resources in 11047
administering this section. 11048

Money in the clean Ohio trail fund shall not be used for the 11049
appropriation of land, rights, rights-of-way, franchises, 11050
easements, or other property through the exercise of the right of 11051
eminent domain. 11052

The director shall use moneys in the fund exclusively to 11053
provide matching grants to nonprofit organizations and to local 11054
political subdivisions for the purposes of purchasing land or 11055
interests in land for recreational trails and for the construction 11056
of such trails. A matching grant may provide up to seventy-five 11057
per cent of the cost of a recreational trail project, and the 11058
recipient of the matching grant shall provide not less than 11059
twenty-five per cent of that cost. 11060

(C) The director shall establish policies for the purposes of 11061
this section. The policies shall establish all of the following: 11062

(1) Procedures for providing matching grants to nonprofit 11063

organizations and local political subdivisions for the purposes of 11064
purchasing land or interests in land for recreational trails and 11065
for the construction of such trails, including, without 11066
limitation, procedures for both of the following: 11067

(a) Developing a grant application form and soliciting, 11068
accepting, and approving grant applications; 11069

(b) Participation by nonprofit organizations and local 11070
political subdivisions in the application process. 11071

(2) A requirement that an application for a matching grant 11072
for a recreational trail project include a copy of a resolution 11073
supporting the project from each county in which the proposed 11074
project is to be conducted and whichever of the following is 11075
applicable: 11076

(a) If the proposed project is to be conducted wholly within 11077
the geographical boundaries of one township, a copy of a 11078
resolution supporting the project from the township; 11079

(b) If the proposed project is to be conducted wholly within 11080
the geographical boundaries of one municipal corporation, a copy 11081
of a resolution supporting the project from the municipal 11082
corporation; 11083

(c) If the proposed project is to be conducted in more than 11084
one, but fewer than five townships or municipal corporations, a 11085
copy of a resolution supporting the project from at least one-half 11086
of the total number of townships and municipal corporations in 11087
which the proposed project is to be conducted; 11088

(d) If the proposed project is to be conducted in five or 11089
more municipal corporations, a copy of a resolution supporting the 11090
project from at least three-fifths of the total number of 11091
townships and municipal corporations in which the proposed project 11092
is to be conducted. 11093

(3) Eligibility criteria that must be satisfied by an applicant in order to receive a matching grant and that emphasize the following:	11094 11095 11096
(a) Synchronization with the statewide trail plan;	11097
(b) Complete regional systems and links to the statewide trail system;	11098 11099
(c) A combination of funds from various state agencies;	11100
(d) The provision of links in urban areas that support commuter access and show economic impact on local communities;	11101 11102
(e) The linkage of population centers with public outdoor recreation areas and facilities;	11103 11104
(f) The purchase of rail lines that are linked to the statewide trail plan;	11105 11106
(g) The preservation of natural corridors.	11107
(4) Items of value, such as in-kind contributions of land, easements or other interests in land, labor, or materials, that may be considered as contributing toward the percentage of the cost of a recreational trails project that must be provided by a matching grant recipient.	11108 11109 11110 11111 11112
Sec. 1521.06. (A) No dam may be constructed for the purpose of storing, conserving, or retarding water, or for any other purpose, nor shall any dike or levee be constructed for the purpose of diverting or retaining flood water, unless the person or governmental agency desiring the construction has a construction permit for the dam, dike, or levee issued by the chief of the division of water.	11113 11114 11115 11116 11117 11118 11119
A construction permit is not required under this section for:	11120
(1) A dam which <u>that</u> is or will be less than ten feet in height and which <u>that</u> has or will have a storage capacity of not	11121 11122

more than fifty acre-feet at the elevation of the top of the dam, 11123
as determined by the chief. For the purposes of this section, the 11124
height of a dam shall be measured from the natural stream bed or 11125
lowest ground elevation at the downstream or outside limit of the 11126
dam to the elevation of the top of the dam. 11127

(2) A dam, regardless of height, ~~which~~ that has or will have 11128
a storage capacity of not more than fifteen acre-feet at the 11129
elevation of the top of the dam, as determined by the chief; 11130

(3) A dam, regardless of storage capacity, ~~which~~ that is or 11131
will be six feet or less in height, as determined by the chief; 11132

(4) A dam, dike, or levee ~~which~~ that belongs to a class 11133
exempted by the chief; 11134

(5) The repair, maintenance, improvement, alteration, or 11135
removal of a dam, dike, or levee ~~which~~ that is subject to section 11136
1521.062 of the Revised Code, unless the construction constitutes 11137
an enlargement of the structure as determined by the chief; 11138

(6) A dam or impoundment constructed under Chapter 1513. of 11139
the Revised Code. 11140

(B) Before a construction permit may be issued, three copies 11141
of the plans and specifications, including a detailed cost 11142
estimate, for the proposed construction, prepared by a registered 11143
professional engineer, together with the filing fee specified by 11144
this section and the bond or other security required by section 11145
1521.061 of the Revised Code, shall be filed with the chief. The 11146
detailed estimate of the cost shall include all costs associated 11147
with the construction of the dam, dike, or levee, including 11148
supervision and inspection of the construction by a registered 11149
professional engineer. ~~Except for a political subdivision, the~~ The 11150
filing fee shall be based on the detailed cost estimate for the 11151
proposed construction as filed with and approved by the chief, and 11152
shall be determined by the following schedule unless otherwise 11153

provided by rules adopted under this section: 11154

(1) For the first one hundred thousand dollars of estimated 11155
cost, a fee of ~~two~~ four per cent; 11156

(2) For the next four hundred thousand dollars of estimated 11157
cost, a fee of ~~one and one-half~~ three per cent; 11158

(3) For the next five hundred thousand dollars of estimated 11159
cost, a fee of ~~one~~ two per cent; 11160

(4) For all costs in excess of one million dollars, a fee of 11161
~~one-quarter~~ one-half of one per cent. 11162

In no case shall the filing fee be less than ~~two hundred~~ one 11163
thousand dollars or more than ~~fifty~~ one hundred thousand dollars. 11164
If the actual cost exceeds the estimated cost by more than fifteen 11165
per cent, an additional filing fee shall be required equal to the 11166
fee determined by the preceding schedule less the original filing 11167
fee. ~~The filing fee for a political subdivision shall be two~~ 11168
~~hundred dollars.~~ All fees collected pursuant to this section, and 11169
all fines collected pursuant to section 1521.99 of the Revised 11170
Code, shall be deposited in the state treasury to the credit of 11171
the dam safety fund, which is hereby created. Expenditures from 11172
the fund shall be made by the chief for the purpose of 11173
administering this section and sections 1521.061 and 1521.062 of 11174
the Revised Code. 11175

(C) The chief shall, within thirty days from the date of the 11176
receipt of the application, fee, and bond or other security, issue 11177
or deny a construction permit for the construction or may issue a 11178
construction permit conditioned upon the making of such changes in 11179
the plans and specifications for the construction as ~~he~~ the chief 11180
considers advisable if ~~he~~ the chief determines that the 11181
construction of the proposed dam, dike, or levee, in accordance 11182
with the plans and specifications filed, would endanger life, 11183
health, or property. 11184

(D) The chief may deny a construction permit ~~if he finds~~ 11185
after finding that a dam, dike, or levee built in accordance with 11186
the plans and specifications would endanger life, health, or 11187
property, because of improper or inadequate design, or for such 11188
other reasons as the chief may determine. 11189

In the event the chief denies a permit for the construction 11190
of the dam, dike, or levee, or issues a permit conditioned upon a 11191
making of changes in the plans or specifications for the 11192
construction, ~~he~~ the chief shall state ~~his~~ the reasons therefor 11193
and so notify, in writing, the person or governmental agency 11194
making the application for a permit. If the permit is denied, the 11195
chief shall return the bond or other security to the person or 11196
governmental agency making application for the permit. 11197

The decision of the chief conditioning or denying a 11198
construction permit is subject to appeal as provided in Chapter 11199
119. of the Revised Code. A dam, dike, or levee built 11200
substantially at variance from the plans and specifications upon 11201
which a construction permit was issued is in violation of this 11202
section. The chief may at any time inspect any dam, dike, or 11203
levee, or site upon which any dam, dike, or levee is to be 11204
constructed, in order to determine whether it complies with this 11205
section. 11206

(E) A registered professional engineer shall inspect the 11207
construction for which the permit was issued during all phases of 11208
construction and shall furnish to the chief such regular reports 11209
of ~~his~~ the engineer's inspections as the chief may require. When 11210
the chief finds that construction has been fully completed in 11211
accordance with the terms of the permit and the plans and 11212
specifications approved by ~~him~~ the chief, ~~he~~ the chief shall 11213
approve the construction. When one year has elapsed after approval 11214
of the completed construction, and the chief finds that within 11215
this period no fact has become apparent to indicate that the 11216

construction was not performed in accordance with the terms of the 11217
permit and the plans and specifications approved by the chief, or 11218
that the construction as performed would endanger life, health, or 11219
property, ~~he~~ the chief shall release the bond or other security. 11220
No bond or other security shall be released until one year after 11221
final approval by the chief, unless the dam, dike, or levee has 11222
been modified so that it will not retain water and has been 11223
approved as nonhazardous after determination by the chief that the 11224
dam, dike, or levee as modified will not endanger life, health, or 11225
property. 11226

(F) When inspections required by this section are not being 11227
performed, the chief shall notify the person or governmental 11228
agency to which the permit has been issued that inspections are 11229
not being performed by the registered professional engineer and 11230
that the chief will inspect the remainder of the construction. 11231
Thereafter, the chief shall inspect the construction and the cost 11232
of inspection shall be charged against the owner. Failure of the 11233
registered professional engineer to submit required inspection 11234
reports shall be deemed notice that ~~his~~ the engineer's inspections 11235
are not being performed. 11236

(G) The chief may order construction to cease on any dam, 11237
dike, or levee ~~which~~ that is being built in violation of ~~the~~ 11238
~~provisions of~~ this section, and may prohibit the retention of 11239
water behind any dam, dike, or levee ~~which~~ that has been built in 11240
violation of ~~the provisions of~~ this section. The attorney general, 11241
upon written request of the chief, may bring an action for an 11242
injunction against any person who violates this section or to 11243
enforce an order or prohibition of the chief made pursuant to this 11244
section. 11245

(H) The chief may adopt rules in accordance with Chapter 119. 11246
of the Revised Code, for the design and construction of dams, 11247
dikes, and levees for which a construction permit is required by 11248

this section or for which periodic inspection is required by 11249
section 1521.062 of the Revised Code, for establishing a filing 11250
fee schedule in lieu of the schedule established under division 11251
(B) of this section, for deposit and forfeiture of bonds and other 11252
securities required by section 1521.061 of the Revised Code, for 11253
the periodic inspection, operation, repair, improvement, 11254
alteration, or removal of all dams, dikes, and levees, as 11255
specified in section 1521.062 of the Revised Code, and for 11256
establishing classes of dams, dikes, or levees ~~which~~ that are 11257
exempt from the requirements of sections 1521.06 and 1521.062 of 11258
the Revised Code as being of a size, purpose, or situation ~~which~~ 11259
that does not present a substantial hazard to life, health, or 11260
property. The chief may, by rule, limit the period during which a 11261
construction permit issued under this section is valid. If a 11262
construction permit expires before construction is completed, the 11263
person or agency shall apply for a new permit, and shall not 11264
continue construction until the new permit is issued. 11265

~~(I) As used in this section and section 1521.063 of the~~ 11266
~~Revised Code, "political subdivision" includes townships,~~ 11267
~~municipal corporations, counties, school districts, municipal~~ 11268
~~universities, park districts, sanitary districts, and conservancy~~ 11269
~~districts and subdivisions thereof.~~ 11270

Sec. 1521.063. (A) Except for a ~~political subdivision~~ the 11271
federal government, the owner of any dam subject to section 11272
1521.062 of the Revised Code shall pay an annual fee, based upon 11273
the height of the dam, to the division of water on or before June 11274
30, 1988, and on or before the thirtieth day of June of each 11275
succeeding year. The annual fee shall be as follows until 11276
otherwise provided by rules adopted under this section: 11277

(1) For any dam classified as a class I dam under rules 11278
adopted by the chief of the division of water under section 11279

1521.06 of the Revised Code, thirty dollars plus ~~three~~ ten dollars per foot of height of dam; 11280
11281

(2) For any dam classified as a class II dam under those rules, thirty dollars plus one dollar per foot of height of dam; 11282
11283

(3) For any dam classified as a class III dam under those rules, thirty dollars. 11284
11285

For purposes of this section, the height of a dam is the vertical height, to the nearest foot, as determined by the division under section 1521.062 of the Revised Code. All fees collected under this section shall be deposited in the dam safety fund created in section 1521.06 of the Revised Code. Any owner who fails to pay any annual fee required by this section within sixty days after the due date shall be assessed a penalty of ten per cent of the annual fee plus interest at the rate of one-half per cent per month from the due date until the date of payment. 11286
11287
11288
11289
11290
11291
11292
11293
11294

(B) The chief shall, in accordance with Chapter 119. of the Revised Code, adopt, and may amend or rescind, rules for the collection of fees and the administration, implementation, and enforcement of this section and for the establishment of an annual fee schedule in lieu of the schedule established under division (A) of this section. 11295
11296
11297
11298
11299
11300

(C)(1) No person, political subdivision, or state governmental agency shall violate or fail to comply with this section or any rule or order adopted or issued under it. 11301
11302
11303

(2) The attorney general, upon written request of the chief, may commence an action against any such violator. Any action under division (C)(2) of this section is a civil action. 11304
11305
11306

(D) As used in this section, "political subdivision" includes townships, municipal corporations, counties, school districts, municipal universities, park districts, sanitary districts, and conservancy districts and subdivisions thereof. 11307
11308
11309
11310

Sec. 1531.26. There is hereby created in the state treasury 11311
the nongame and endangered wildlife fund, which shall consist of 11312
moneys paid into it by the tax commissioner under section 5747.113 11313
of the Revised Code, moneys deposited in the fund from the 11314
issuance of wildlife conservation license plates under section 11315
4503.57 of the Revised Code, moneys deposited in the fund from the 11316
issuance of bald eagle license plates under section 4503.572 of 11317
the Revised Code, moneys credited to the fund under section 11318
1533.151 of the Revised Code, and ~~of~~ contributions made directly 11319
to it. Any person may contribute directly to the fund in addition 11320
to or independently of the income tax refund contribution system 11321
established in section 5747.113 of the Revised Code. Moneys in the 11322
fund shall be disbursed pursuant to vouchers approved by the 11323
director of natural resources for use by the division of wildlife 11324
solely for the purchase, management, preservation, propagation, 11325
protection, and stocking of wild animals that are not commonly 11326
taken for sport or commercial purposes, including the acquisition 11327
of title and easements to lands, biological investigations, law 11328
enforcement, production of educational materials, sociological 11329
surveys, habitat development, and personnel and equipment costs; 11330
and for carrying out section 1531.25 of the Revised Code. Moneys 11331
in the fund also may be used to promote and develop nonconsumptive 11332
wildlife recreational opportunities involving wild animals. Moneys 11333
in the fund from the issuance of bald eagle license plates under 11334
section 4503.572 of the Revised Code shall be expended by the 11335
division only to pay the costs of acquiring, developing, and 11336
restoring habitat for bald eagles within this state. Moneys in the 11337
fund from any other source also may be used to pay the costs of 11338
acquiring, developing, and restoring habitat for bald eagles 11339
within this state. 11340

All investment earnings of the fund shall be credited to the 11341
fund. Subject to the approval of the director, the chief of the 11342

division of wildlife may enter into agreements that the chief 11343
considers appropriate to obtain additional moneys for the 11344
protection of nongame native wildlife under the "Endangered 11345
Species Act of 1973," 87 Stat. 884, 16 U.S.C.A. 1541-1543, as 11346
amended, and the "Fish and Wildlife Conservation Act of 1980," 94 11347
Stat. 1322, 16 U.S.C.A. 2901-2911, as amended. Moneys appropriated 11348
from the fund are not intended to replace other moneys 11349
appropriated for these purposes. 11350

Sec. 1533.08. Except as otherwise provided by division rule, 11351
any person desiring to collect wild animals that are protected by 11352
law or their nests or eggs for scientific study, school 11353
instruction, other educational uses, or rehabilitation shall make 11354
application to the chief of the division of wildlife for a wild 11355
animal collecting permit on a form furnished by the chief. Each 11356
applicant for a wild animal collecting permit, other than an 11357
applicant desiring to rehabilitate wild animals, shall pay an 11358
annual fee of ~~ten~~ twenty-five dollars for each permit. No fee 11359
shall be charged to an applicant desiring to rehabilitate wild 11360
animals. When it appears that the application is made in good 11361
faith, the chief shall issue to the applicant a permit to take, 11362
possess, and transport at any time and in any manner specimens of 11363
wild animals protected by law or their nests and eggs for 11364
scientific study, school instruction, other educational uses, or 11365
rehabilitation and under any additional rules recommended by the 11366
wildlife council. Upon the receipt of a permit, the holder may 11367
take, possess, and transport those wild animals in accordance with 11368
the permit. 11369

Each holder of a permit engaged in collecting such wild 11370
animals shall carry the permit at all times and shall exhibit it 11371
upon demand to any wildlife officer, constable, sheriff, deputy 11372
sheriff, or police officer, to the owner or person in lawful 11373
control of the land upon which the permit holder is collecting, or 11374

to any other person. Failure to so carry or exhibit the permit 11375
constitutes an offense under this section. 11376

Each permit holder shall keep a daily record of all specimens 11377
collected under the permit and the disposition of the specimens 11378
and shall exhibit the daily record to any official of the division 11379
upon demand. 11380

Each permit shall remain in effect for one year from the date 11381
of issuance unless it is revoked sooner by the chief. 11382

All moneys received as fees for the issuance of a wild animal 11383
collecting permit shall be transmitted to the director of natural 11384
resources to be paid into the state treasury to the credit of the 11385
fund created by section 1533.15 of the Revised Code. 11386

Sec. 1533.10. Except as provided in this section or division 11387
(A) of section 1533.12 of the Revised Code, no person shall hunt 11388
any wild bird or wild quadruped without a hunting license. Each 11389
day that any person hunts within the state without procuring such 11390
a license constitutes a separate offense. Every Except as 11391
otherwise provided in this section, every applicant for a hunting 11392
license who is a resident of the state and sixteen years of age or 11393
more shall procure a resident hunting license, the fee for which 11394
shall be ~~fourteen~~ eighteen dollars, unless the rules adopted under 11395
division (B) of section 1533.12 of the Revised Code provide for 11396
issuance of a resident hunting license to the applicant free of 11397
charge. Except as provided in rules adopted under division (B)(2) 11398
of that section, each applicant who is a resident of this state 11399
and who at the time of application is sixty-six years of age or 11400
older shall procure a special senior hunting license, the fee for 11401
which shall be one-half of the regular hunting license fee. Every 11402
applicant who is a resident of the state and under the age of 11403
sixteen years shall procure a special youth hunting license, the 11404
fee for which shall be one-half of the regular hunting license 11405

fee. The owner of lands in the state and the owner's children of 11406
any age and grandchildren under eighteen years of age may hunt on 11407
the lands without a hunting license. The tenant ~~or manager~~ and 11408
children of the tenant ~~or manager~~, residing on lands in the state, 11409
may hunt on them without a hunting license. Every applicant for a 11410
hunting license who is a nonresident of the state shall procure a 11411
nonresident hunting license, the fee for which shall be ~~ninety one~~ 11412
hundred twenty-four dollars, unless the applicant is a resident of 11413
a state that is a party to an agreement under section 1533.91 of 11414
the Revised Code, in which case the fee shall be ~~fourteen~~ eighteen 11415
dollars. 11416

The chief of the division of wildlife may issue a ~~tourist's~~ 11417
small game hunting license expiring three days from the effective 11418
date of the license to a nonresident of the state, the fee for 11419
which shall be ~~twenty-four~~ thirty-nine dollars. No person shall 11420
take or possess deer, wild turkeys, fur-bearing animals, ducks, 11421
geese, brant, or any nongame animal while possessing only a 11422
~~tourist's~~ small game hunting license. A ~~tourist's~~ small game 11423
hunting license does not authorize the taking or possessing of 11424
ducks, geese, or brant without having obtained, in addition to the 11425
~~tourist's~~ small game hunting license, a wetlands habitat stamp as 11426
provided in section 1533.112 of the Revised Code. A ~~tourist's~~ 11427
small game hunting license does not authorize the taking or 11428
possessing of deer, wild turkeys, or fur-bearing animals. A 11429
nonresident of the state who wishes to take or possess deer, wild 11430
turkeys, or fur-bearing animals in this state shall procure, 11431
respectively, a special deer or wild turkey permit as provided in 11432
section 1533.11 of the Revised Code or a fur taker permit as 11433
provided in section 1533.111 of the Revised Code in addition to a 11434
nonresident hunting license as provided in this section. 11435

No person shall procure or attempt to procure a hunting 11436
license by fraud, deceit, misrepresentation, or any false 11437

statement. 11438

This section does not authorize the taking and possessing of 11439
deer or wild turkeys without first having obtained, in addition to 11440
the hunting license required by this section, a special deer or 11441
wild turkey permit as provided in section 1533.11 of the Revised 11442
Code or the taking and possessing of ducks, geese, or brant 11443
without first having obtained, in addition to the hunting license 11444
required by this section, a wetlands habitat stamp as provided in 11445
section 1533.112 of the Revised Code. 11446

This section does not authorize the hunting or trapping of 11447
fur-bearing animals without first having obtained, in addition to 11448
a hunting license required by this section, a fur taker permit as 11449
provided in section 1533.111 of the Revised Code. 11450

No hunting license shall be issued unless it is accompanied 11451
by a written explanation of the law in section 1533.17 of the 11452
Revised Code and the penalty for its violation, including a 11453
description of terms of imprisonment and fines that may be 11454
imposed. 11455

No hunting license shall be issued unless the applicant 11456
presents to the agent authorized to issue the license a previously 11457
held hunting license or evidence of having held such a license in 11458
content and manner approved by the chief, a certificate of 11459
completion issued upon completion of a hunter education and 11460
conservation course approved by the chief, or evidence of 11461
equivalent training in content and manner approved by the chief. 11462

No person shall issue a hunting license to any person who 11463
fails to present the evidence required by this section. No person 11464
shall purchase or obtain a hunting license without presenting to 11465
the issuing agent the evidence required by this section. Issuance 11466
of a hunting license in violation of the requirements of this 11467
section is an offense by both the purchaser of the illegally 11468

obtained hunting license and the clerk or agent who issued the 11469
hunting license. Any hunting license issued in violation of this 11470
section is void. 11471

The chief, with approval of the wildlife council, shall adopt 11472
rules prescribing a hunter education and conservation course for 11473
first-time hunting license buyers and for volunteer instructors. 11474
The course shall consist of subjects including, but not limited 11475
to, hunter safety and health, use of hunting implements, hunting 11476
tradition and ethics, the hunter and conservation, the law in 11477
section 1533.17 of the Revised Code along with the penalty for its 11478
violation, including a description of terms of imprisonment and 11479
fines that may be imposed, and other law relating to hunting. 11480
Authorized personnel of the division or volunteer instructors 11481
approved by the chief shall conduct such courses with such 11482
frequency and at such locations throughout the state as to 11483
reasonably meet the needs of license applicants. The chief shall 11484
issue a certificate of completion to each person who successfully 11485
completes the course and passes an examination prescribed by the 11486
chief. 11487

Sec. 1533.101. Any person who has been issued a hunting or 11488
fishing license, a wetlands habitat stamp, a deer or wild turkey 11489
permit, or a fur taker permit for the current license, stamp, or 11490
permit year or for the license, stamp, or permit year next 11491
preceding the current such year pursuant to this chapter, and if 11492
the license, stamp, or permit has been lost, destroyed, or stolen, 11493
may be issued a reissued hunting or fishing license, wetlands 11494
habitat stamp, deer or wild turkey permit, or fur taker permit. 11495
The person shall file with the clerk of the court of common pleas 11496
an application in affidavit form or, if the chief of the division 11497
of wildlife authorizes it, apply for a reissued license, stamp, or 11498
permit to an authorized agent designated by the chief, and pay a 11499
fee for each license, stamp, or permit of ~~two~~ four dollars plus 11500

one dollar to the clerk or agent, who shall issue a reissued 11501
license, stamp, or permit that shall allow the applicant to hunt, 11502
fish, or trap, as the case may be. The clerk or agent shall 11503
administer the oath to the applicant and shall send a copy of the 11504
reissued license, stamp, or permit to the division of wildlife. 11505

All moneys received as fees for the issuance of reissued 11506
licenses, stamps, or permits shall be transmitted to the director 11507
of natural resources to be paid into the state treasury to the 11508
credit of the funds to which the fees for the original licenses, 11509
stamps, and permits were credited. 11510

No person shall knowingly or willfully secure, attempt to 11511
secure, or use a reissued hunting or fishing license, wetlands 11512
habitat stamp, deer or wild turkey permit, or fur taker permit to 11513
which the person is not entitled. No person shall knowingly or 11514
willfully issue a reissued hunting or fishing license, wetlands 11515
habitat stamp, deer or wild turkey permit, or fur taker permit 11516
under this section to any person who is not entitled to receive 11517
and use such a reissued license, stamp, or permit. 11518

Sec. 1533.11. (A) Except as provided in this section, no 11519
person shall hunt deer on lands of another without first obtaining 11520
an annual special deer permit. Except as provided in this section, 11521
no person shall hunt wild turkeys on lands of another without 11522
first obtaining an annual special wild turkey permit. Each 11523
applicant for a special deer or wild turkey permit shall pay an 11524
annual fee of ~~nineteen~~ twenty-three dollars for each permit, 11525
together with the one-dollar ~~as a~~ fee to the clerk or other 11526
issuing agent established in section 1533.13 of the Revised Code, 11527
for the permit unless the rules adopted under division (B) of 11528
section 1533.12 of the Revised Code provide for issuance of a deer 11529
or wild turkey permit to the applicant free of charge. Except as 11530
provided in division (A) of section 1533.12 of the Revised Code, a 11531

deer or wild turkey permit shall run concurrently with the hunting 11532
license. The money received, other than the ~~one-dollar~~ issuing 11533
agent's fee ~~provided for above~~, shall be paid into the state 11534
treasury to the credit of the wildlife fund, created in section 11535
1531.17 of the Revised Code, exclusively for the use of the 11536
division of wildlife in the acquisition and development of land 11537
for deer or wild turkey management, for investigating deer or wild 11538
turkey problems, and for the stocking, management, and protection 11539
of deer or wild turkey. Every person, while hunting deer or wild 11540
turkey on lands of another, shall carry the person's special deer 11541
or wild turkey permit and exhibit it to any enforcement officer so 11542
requesting. Failure to so carry and exhibit such a permit 11543
constitutes an offense under this section. The chief of the 11544
division of wildlife shall adopt any additional rules the chief 11545
considers necessary to carry out this section and section 1533.10 11546
of the Revised Code. 11547

The owner and the children of the owner of lands in this 11548
state may hunt deer or wild turkey thereon without a special deer 11549
or wild turkey permit. The tenant ~~or manager~~ and children of the 11550
tenant ~~or manager~~ may hunt deer or wild turkey on lands where they 11551
reside without a special deer or wild turkey permit. 11552

(B) A special deer or wild turkey permit is not transferable. 11553
No person shall carry a special deer or wild turkey permit issued 11554
in the name of another person. 11555

(C) The wildlife refunds fund is hereby created in the state 11556
treasury. The fund shall consist of money received from 11557
application fees for special deer permits that are not issued. 11558
Money in the fund shall be used to make refunds of such 11559
application fees. 11560

Sec. 1533.111. Except as provided in this section or division 11561
(A) of section 1533.12 of the Revised Code, no person shall hunt 11562

or trap fur-bearing animals on land of another without first 11563
obtaining an annual fur taker permit. Each applicant for a fur 11564
taker permit shall pay an annual fee of ~~ten~~ fourteen dollars, 11565
together with one dollar as a fee to the clerk or other issuing 11566
agent, for the permit, except as otherwise provided in this 11567
section or unless the rules adopted under division (B) of section 11568
1533.12 of the Revised Code provide for issuance of a fur taker 11569
permit to the applicant free of charge. Except as provided in 11570
rules adopted under division (B)(2) of that section, each 11571
applicant who is a resident of this state and who at the time of 11572
application is sixty-six years of age or older shall procure a 11573
special senior fur taker permit, the fee for which shall be 11574
one-half of the regular fur taker permit fee and which shall be 11575
paid together with the one-dollar fee to the clerk or other 11576
issuing agent established in section 1533.13 of the Revised Code. 11577
Each applicant who is a resident of the state and under the age of 11578
sixteen years shall procure a special youth fur taker permit, the 11579
fee for which shall be one-half of the regular fur taker permit 11580
fee and which shall be paid together with the one-dollar as a fee 11581
to the clerk or other issuing agent established in section 1533.13 11582
of the Revised Code. The fur taker permit shall run concurrently 11583
with the hunting license. The money received, other than the ~~one-~~ 11584
~~dollar~~ issuing agent's fee provided for in this section, shall be 11585
paid into the state treasury to the credit of the fund established 11586
in section 1533.15 of the Revised Code. 11587

No fur taker permit shall be issued unless it is accompanied 11588
by a written explanation of the law in section 1533.17 of the 11589
Revised Code and the penalty for its violation, including a 11590
description of terms of imprisonment and fines that may be 11591
imposed. 11592

No fur taker permit shall be issued unless the applicant 11593
presents to the agent authorized to issue a fur taker permit a 11594

previously held hunting license or trapping or fur taker permit or 11595
evidence of having held such a license or permit in content and 11596
manner approved by the chief of the division of wildlife, a 11597
certificate of completion issued upon completion of a trapper 11598
education course approved by the chief, or evidence of equivalent 11599
training in content and manner approved by the chief. 11600

No person shall issue a fur taker permit to any person who 11601
fails to present the evidence required by this section. No person 11602
shall purchase or obtain a fur taker permit without presenting to 11603
the issuing agent the evidence required by this section. Issuance 11604
of a fur taker permit in violation of the requirements of this 11605
section is an offense by both the purchaser of the illegally 11606
obtained permit and the clerk or agent who issued the permit. Any 11607
fur taker permit issued in violation of this section is void. 11608

The chief, with approval of the wildlife council, shall adopt 11609
rules prescribing a trapper education course for first-time fur 11610
taker permit buyers and for volunteer instructors. The course 11611
shall consist of subjects that include, but are not limited to, 11612
trapping techniques, animal habits and identification, trapping 11613
tradition and ethics, the trapper and conservation, the law in 11614
section 1533.17 of the Revised Code along with the penalty for its 11615
violation, including a description of terms of imprisonment and 11616
fines that may be imposed, and other law relating to trapping. 11617
Authorized personnel of the division of wildlife or volunteer 11618
instructors approved by the chief shall conduct the courses with 11619
such frequency and at such locations throughout the state as to 11620
reasonably meet the needs of permit applicants. The chief shall 11621
issue a certificate of completion to each person who successfully 11622
completes the course and passes an examination prescribed by the 11623
chief. 11624

Every person, while hunting or trapping fur-bearing animals 11625
on lands of another, shall carry the person's fur taker permit 11626

affixed to the person's hunting license with the person's 11627
signature written across the face of the permit. Failure to carry 11628
such a signed permit constitutes an offense under this section. 11629
The chief shall adopt any additional rules the chief considers 11630
necessary to carry out this section. 11631

The owner and the children of the owner of lands in this 11632
state may hunt or trap fur-bearing animals thereon without a fur 11633
taker permit. The tenant ~~or manager~~ and children of the tenant ~~or~~ 11634
~~manager~~ may hunt or trap fur-bearing animals on lands where they 11635
reside without a fur taker permit. 11636

A fur taker permit is not transferable. No person shall carry 11637
a fur taker permit issued in the name of another person. 11638

A fur taker permit entitles a nonresident to take from this 11639
state fur-bearing animals taken and possessed by the nonresident 11640
as provided by law or division rule. 11641

Sec. 1533.112. Except as provided in this section or unless 11642
otherwise provided by division rule, no person shall hunt ducks, 11643
geese, or brant on the lands of another without first obtaining an 11644
annual wetlands habitat stamp. The annual fee for the wetlands 11645
habitat stamp shall be ~~ten~~ fourteen dollars for each stamp, 11646
together with the one-dollar ~~as a~~ fee to the clerk or other 11647
issuing agent established in section 1533.13 of the Revised Code, 11648
unless the rules adopted under division (B) of section 1533.12 11649
provide for issuance of a wetlands habitat stamp to the applicant 11650
free of charge. 11651

Moneys received from the stamp fee, other than the ~~one-~~ 11652
~~dollar clerk's~~ issuing agent's fee, shall be paid into the state 11653
treasury to the credit of the wetlands habitat fund, which is 11654
hereby established. Moneys shall be paid from the fund on the 11655
order of the director of natural resources for the following 11656
purposes: 11657

(A) Sixty per cent for projects that the division approves 11658
for the acquisition, development, management, or preservation of 11659
waterfowl areas within the state; 11660

(B) Forty per cent for contribution by the division to an 11661
appropriate nonprofit organization for the acquisition, 11662
development, management, or preservation of lands and waters 11663
within the United States or Canada that provide or will provide 11664
habitat for waterfowl with migration routes that cross this state. 11665

No moneys derived from the issuance of wetlands habitat 11666
stamps shall be spent for purposes other than those specified by 11667
this section. All investment earnings of the fund shall be 11668
credited to the fund. 11669

Wetlands habitat stamps shall be furnished by and in a form 11670
prescribed by the chief of the division of wildlife and issued by 11671
clerks and other agents authorized to issue licenses and permits 11672
under section 1533.13 of the Revised Code. The record of stamps 11673
kept by the clerks and other agents shall be uniform throughout 11674
the state, in such form or manner as the director prescribes, and 11675
open at all reasonable hours to the inspection of any person. 11676
Unless otherwise provided by rule, each stamp shall remain in 11677
force until midnight of the thirty-first day of August next 11678
ensuing. Wetlands habitat stamps may be issued in any manner to 11679
any person on any date, whether or not that date is within the 11680
period in which they are effective. 11681

Every person to whom this section applies, while hunting 11682
ducks, geese, or brant, shall carry an unexpired wetlands habitat 11683
stamp that is validated by the person's signature written on the 11684
stamp in ink and shall exhibit the stamp to any enforcement 11685
officer so requesting. No person shall fail to carry and exhibit 11686
the person's stamp. 11687

A wetlands habitat stamp is not transferable. 11688

The chief shall establish a procedure to obtain subject matter to be printed on the wetlands habitat stamp and shall use, dispose of, or distribute the subject matter as the chief considers necessary. The chief also shall adopt rules necessary to administer this section.

This section does not apply to persons under sixteen years of age nor to persons exempted from procuring a hunting license under section 1533.10 or division (A) of section 1533.12 of the Revised Code.

Sec. 1533.12. (A) Every person on active duty in the armed forces of the United States, while on leave or furlough, may take or catch fish of the kind lawfully permitted to be taken or caught within the state, may hunt any wild bird or wild quadruped lawfully permitted to be hunted within the state, and may trap fur-bearing animals lawfully permitted to be trapped within the state, without procuring a fishing license, a hunting license, a fur taker permit, or a wetlands habitat stamp required by this chapter, provided that the person shall carry on ~~self~~ the person when fishing, hunting, or trapping, a card or other evidence identifying the person as being on active duty in the armed forces of the United States, and provided that the person is not otherwise violating any of the hunting, fishing, and trapping laws of this state.

In order to hunt deer or wild turkey, any such person shall obtain a special deer or wild turkey permit, as applicable, under section 1533.11 of the Revised Code. However, the person need not obtain a hunting license in order to obtain such a permit.

(B) The chief of the division of wildlife shall provide by rule adopted under section 1531.10 of the Revised Code all of the following:

(1) Every resident of this state with a disability that has
been determined by the veterans administration to be permanently
and totally disabling, who receives a pension or compensation from
the veterans administration, and who received an honorable
discharge from the armed forces of the United States, and every
veteran to whom the registrar of motor vehicles has issued a set
of license plates under section 4503.41 of the Revised Code, shall
be issued an annual fishing license, hunting license, fur taker
permit, deer or wild turkey permit, or wetlands habitat stamp, or
any combination of those licenses, permits, and stamp, free of
charge when application is made to the chief in the manner
prescribed by and on forms provided by the chief.

(2) Every resident of the state who ~~is sixty six years of age~~
~~or older~~ was born on or before December 31, 1937, shall be issued
an annual fishing license, hunting license, fur taker permit, deer
or wild turkey permit, or wetlands habitat stamp, or any
combination of those licenses, permits, and stamp, free of charge
when application is made to the chief in the manner prescribed by
and on forms provided by the chief.

(3) Every resident of state or county institutions,
charitable institutions, and military homes in this state shall be
issued an annual fishing license free of charge when application
is made to the chief in the manner prescribed by and on forms
provided by the chief.

(4) Any mobility impaired or blind person, as defined in
section 955.011 of the Revised Code, who is a resident of this
state and who is unable to engage in fishing without the
assistance of another person shall be issued an annual fishing
license free of charge when application is made to the chief in
the manner prescribed by and on forms provided by the chief. The
person who is assisting the mobility impaired or blind person may
assist in taking or catching fish of the kind permitted to be

taken or caught without procuring the license required under 11751
section 1533.32 of the Revised Code, provided that only one line 11752
is used by both persons. 11753

(5) As used in division (B)(5) of this section, "prisoner of 11754
war" means any regularly appointed, enrolled, enlisted, or 11755
inducted member of the military forces of the United States who 11756
was captured, separated, and incarcerated by an enemy of the 11757
United States. 11758

Any person who has been a prisoner of war, was honorably 11759
discharged from the military forces, and is a resident of this 11760
state shall be issued an annual fishing license, hunting license, 11761
fur taker permit, or wetlands habitat stamp, or any combination of 11762
those licenses, permits, and stamp, free of charge when 11763
application is made to the chief in the manner prescribed by and 11764
on forms provided by the chief. 11765

(C) The chief shall adopt rules pursuant to section 1531.08 11766
of the Revised Code designating not more than two days, which need 11767
not be consecutive, in each year as "free sport fishing days" on 11768
which any resident may exercise the privileges accorded the holder 11769
of a fishing license issued under section 1533.32 of the Revised 11770
Code without procuring such a license, provided that the person is 11771
not otherwise violating any of the fishing laws of this state. 11772

Sec. 1533.13. Hunting and fishing licenses, wetlands habitat 11773
stamps, deer and wild turkey permits, and fur taker permits shall 11774
be issued by the clerk of the court of common pleas, village and 11775
township clerks, and other authorized agents designated by the 11776
chief of the division of wildlife. When required by the chief, a 11777
clerk or agent shall give bond in the manner provided by the 11778
chief. All bonds, reports, except records prescribed by the 11779
auditor of state, and moneys received by those persons shall be 11780
handled under rules adopted by the director of natural resources. 11781

The premium of any bond prescribed by the chief under this 11782
section may be paid by the chief. Any person who is designated and 11783
authorized by the chief to issue licenses, stamps, and permits as 11784
provided in this section, except the clerk of the court of common 11785
pleas and the village and township clerks, shall pay to the chief 11786
a premium in an amount that represents the person's portion of the 11787
premium paid by the chief under this section, which amount shall 11788
be established by the chief and approved by the wildlife council 11789
created under section 1531.03 of the Revised Code. The chief shall 11790
pay all moneys that the chief receives as premiums under this 11791
section into the state treasury to the credit of the wildlife fund 11792
created under section 1531.17 of the Revised Code. 11793

Every authorized agent, for the purpose of issuing hunting 11794
and fishing licenses, deer and wild turkey permits, and fur taker 11795
permits, may administer oaths to and take affidavits from 11796
applicants for the licenses or permits when required. An 11797
authorized agent may appoint deputies to perform any acts that the 11798
agent is authorized to perform, consistent with division rules. 11799

Every applicant for a hunting or fishing license, deer or 11800
wild turkey permit, or fur taker permit, unless otherwise provided 11801
by division rule, shall make and subscribe an affidavit setting 11802
forth the applicant's name, age, weight, height, occupation, place 11803
of residence, personal description, and citizenship. The clerk or 11804
other agent authorized to issue licenses, stamps, and permits 11805
shall charge each applicant a fee of one dollar for taking the 11806
affidavit and issuing the license, stamp, or permit unless a 11807
different fee for the issuance of a fishing license is established 11808
in division rule as authorized by section 1533.32 of the Revised 11809
Code. The application, license, permit, and other blanks required 11810
by this section shall be prepared and furnished by the chief, in 11811
such form as the chief provides, to the clerk or other agent 11812
authorized to issue them. The licenses and permits shall be issued 11813

to applicants by the clerk or other agent. The record of licenses 11814
and permits kept by the clerk and other authorized agents shall be 11815
uniform throughout the state and in such form or manner as the 11816
auditor of state prescribes and shall be open at all reasonable 11817
hours to the inspection of any person. Unless otherwise provided 11818
by division rule, each hunting license, deer or wild turkey 11819
permit, and fur taker permit issued shall remain in force until 11820
midnight of the thirty-first day of August next ensuing. 11821
Application for any such license or permit may be made and a 11822
license or permit issued prior to the date upon which it becomes 11823
effective. 11824

The chief may require an applicant who wishes to purchase a 11825
license, stamp, or permit by mail or telephone to pay a nominal 11826
fee for postage and handling. 11827

The court before whom a violator of any laws or division 11828
rules for the protection of wild animals is tried, as a part of 11829
the punishment, shall revoke the license, stamp, or permit of any 11830
person convicted. The license, stamp, or permit fee paid by that 11831
person shall not be returned to the person. The person shall not 11832
procure or use any other license, stamp, or permit or engage in 11833
hunting wild animals or trapping fur-bearing animals during the 11834
period of revocation as ordered by the court. 11835

No person under sixteen years of age shall engage in hunting 11836
unless accompanied by the person's parent or another adult person. 11837

Sec. 1533.151. The chief of the division of wildlife, with 11838
the approval of the director of natural resources, ~~is hereby~~ 11839
~~authorized to~~ may print and issue stamps portraying wild animals 11840
of the state. This stamp shall be identified as a wildlife 11841
conservation stamp ~~and the~~. The fee for each stamp shall be ~~five~~ 11842
~~dollars~~ not more than the fee for a wetlands habitat stamp issued 11843
under section 1533.112 of the Revised Code together with the 11844

one-dollar fee to the issuing agent established in section 1533.13 11845
of the Revised Code unless otherwise provided by division rule. 11846

The purchase of wildlife conservation stamps shall provide no 11847
privileges to the purchaser, but merely recognizes ~~such~~ the person 11848
as voluntarily contributing to the management, protection, and the 11849
perpetuation of the wildlife resources of the state. All moneys 11850
received from the sale of wildlife conservation stamps shall be 11851
paid into the state treasury to the credit of the nongame and 11852
endangered wildlife fund to be used exclusively by the division of 11853
wildlife for the purposes outlined in section ~~1533.15~~ 1531.26 of 11854
the Revised Code ~~and for the management of all forms of wildlife~~ 11855
~~for its ecological and non-consumptive recreational value.~~ 11856

Sec. 1533.19. Except as otherwise provided by division rule, 11857
recognized field trial clubs may shoot domestically raised quails, 11858
chukar partridges, ducks, pheasants, or other game birds and 11859
common pigeons at any time during the daylight hours from the 11860
first day of September to the thirtieth day of April of the 11861
following year, both dates inclusive. Such domestically raised 11862
quails, chukar partridges, ducks, pheasants, and other game birds 11863
shall be banded prior to release and approved by the division of 11864
wildlife for field trial use, provided that permission for the 11865
holding of such a trial shall be obtained from the division. 11866
Permission shall be requested in writing at least thirty days in 11867
advance of the trial. The request shall contain the name of the 11868
recognized field trial club and the names of its officers, the 11869
date and location of the trial, and the name of the licensed 11870
breeders from whom the quails, chukar partridges, ducks, 11871
pheasants, or other game birds will be obtained. The division may 11872
grant a written permit when it is satisfied that the trial is a 11873
bona fide one conducted by a bona fide club under this section. 11874
When an application is approved, a permit shall be issued after 11875
the payment of a fee of ~~twenty-five~~ fifty dollars for each day 11876

upon which the trials are conducted. Participants in such trials 11877
need not possess a hunter's license while participating in the 11878
trials. The division shall supervise all such trials and shall 11879
enforce all laws and division rules governing them. If unbanded 11880
quails, chukar partridges, ducks, pheasants, or other game birds 11881
are accidentally shot during such trials, they immediately shall 11882
be replaced by the club by the releasing of an equal number of 11883
live quails, chukar partridges, ducks, pheasants, or other game 11884
birds under the supervision of the division. 11885

Sec. 1533.23. No person shall deal in or buy green or dried 11886
furs, skins, or parts thereof, taken from fur-bearing animals of 11887
the state, except domesticated rabbits, without a fur dealer's 11888
permit. Every applicant for a fur dealer's permit shall make and 11889
subscribe a statement setting forth ~~his~~ the applicant's name, 11890
place of residence, and whom ~~he~~ the applicant represents. Every 11891
applicant for a dealer's permit who is a nonresident of the state, 11892
or who is a resident of the state and is an agent or 11893
representative of a nonresident person, firm, or corporation, 11894
shall pay an annual fee of two hundred dollars to the chief of the 11895
division of wildlife issuing such permit, and every applicant for 11896
a dealer's permit who is a resident of the state shall pay an 11897
annual fee of ~~fifty~~ seventy-five dollars to the chief ~~of the~~ 11898
~~division of wildlife~~ issuing such permit, ~~and every.~~ Every fur 11899
dealer shall operate under such additional ~~regulations~~ rules as 11900
are provided by the chief ~~of the division of wildlife~~. The chief 11901
shall pay ~~such~~ the fees into the state treasury to the credit of 11902
the fund created by section 1533.15 of the Revised Code for the 11903
use of the division of wildlife in the purchase, preservation, 11904
protection, and stocking of fur-bearing animals and for the 11905
necessary clerical help and forms required by this section and 11906
section 1533.24 of the Revised Code. 11907

All permits shall be procured from the chief and the 11908

application, license, and other blanks required by this section 11909
and section 1533.24 of the Revised Code shall be in such form as 11910
the chief prescribes. Each such permit shall expire on the 11911
thirtieth day of April next after its issuance. 11912

Sec. 1533.301. Any person may apply for a permit to transport 11913
fish that are for sale, sold, or purchased. The chief of the 11914
division of wildlife shall issue an annual permit granting the 11915
applicant the privilege to transport such fish, upon filing of an 11916
application on a form prescribed by the chief and payment of a fee 11917
of ~~fifty~~ sixty-five dollars. No person shall transport any fish or 11918
part thereof that is for sale, sold, or purchased, whether 11919
acquired in or outside this state, unless the consignor has a 11920
permit ~~issued to him~~ for the calendar year in which the fish is 11921
transported, except that no such permit is required for any of the 11922
following: 11923

(A) Fish transported from a point outside this state to 11924
another point outside this state if the fish are not unloaded in 11925
this state. A fish is not to be considered unloaded for purposes 11926
of this section if it remains under the control of a common 11927
carrier. 11928

(B) Fish being transported by a person holding a valid 11929
license under section 1533.34 of the Revised Code from the place 11930
of taking to ~~his~~ the person's usual place of processing or 11931
temporary storage as designated by ~~him~~ the person in the 11932
application for the license under that section; 11933

(C) Fish being transported from a premises designated in a 11934
valid permit issued under section 1533.631 of the Revised Code to 11935
a premises where fish are to be sold at retail, sold for immediate 11936
consumption, or consumed if inspection of the designated premises 11937
as required by that section has not been denied during the 11938
preceding thirty days; 11939

(D) Any quantity of fish the total weight of which does not 11940
exceed five hundred pounds in one vehicle; 11941

(E) Minnows for which a permit is required under section 11942
1533.40 of the Revised Code. 11943

If a fish for which a permit is required under this section 11944
is transported in this state from a consignor who does not have a 11945
valid permit at the time of transportation, or if such a fish is 11946
transported in this state from a consignor who has a valid permit 11947
at the time of transportation, but the fish is part of the 11948
contents of a box, package, or receptacle that was or could be the 11949
basis for conviction of a violation of this chapter or a division 11950
rule, the fish may be seized by any law enforcement officer 11951
authorized by section 1531.13 of the Revised Code to enforce laws 11952
and division rules, and the fish shall escheat to the state unless 11953
a court of this state makes a specific finding that the consignor 11954
at the time of seizure had a valid permit under this section 11955
~~1533.301 of the Revised Code~~ and that the fish are lawful under 11956
the requirements of this chapter or a division rule relating 11957
thereto. 11958

A fish for which a permit is required under this section may 11959
be transported only if each box, package, or other receptacle 11960
bears a label showing the total weight in pounds, the species of 11961
the fish, the name of the consignor and consignee, the initial 11962
point of billing, the destination, and a statement that each 11963
species of fish by weight in the box, package, or other receptacle 11964
that are undersized under ~~the provisions of~~ section 1533.63 of the 11965
Revised Code or division rule is ten per cent or less or is in 11966
excess of ten per cent, whichever the fact may be. If fish are not 11967
boxed or packaged, each compartment of a tank or other receptacle 11968
shall be considered a separate receptacle, but in lieu of a label 11969
on the compartment or tank a written statement containing the same 11970
information required to be contained on a label, and clearly 11971

identifying the tank or receptacle concerned, may be carried in 11972
the vehicle. Species may be designated in any manner, but the 11973
label also shall bear either the common name indicated in section 11974
1533.63 of the Revised Code or the scientific name contained in 11975
section 1531.01 of the Revised Code. The consignor shall ascertain 11976
that labels are attached or statements carried as required herein 11977
and that the facts stated thereon are true. 11978

The permit required by this section may be suspended by the 11979
chief for a period not to exceed five days upon conviction of the 11980
permittee of a violation of this chapter or Chapter 1531. of the 11981
Revised Code or a division rule if the permittee has been 11982
convicted of another such violation during the preceding 11983
twelve-month period. If the permittee has had two or more such 11984
convictions during the twelve-month period preceding such a 11985
conviction, ~~his~~ the permittee's permit may be suspended as 11986
provided herein for a period not to exceed twenty days. A permit 11987
is invalid during the period of suspension, but in no case is a 11988
permit invalid until fifteen days after mailing by certified mail 11989
a notice of the rule of suspension by the chief. 11990

The chief may not suspend more than one permit of the same 11991
permittee, or suspend a permit of the same permittee more than 11992
once, for convictions resulting from violations that occur in a 11993
load in one vehicle. 11994

A driver or other person in charge of a vehicle transporting 11995
fish that are for sale, sold, or purchased, upon demand by any law 11996
enforcement officer authorized by section 1531.13 of the Revised 11997
Code to enforce laws and division rules, shall stop and open the 11998
vehicle and allow inspection of the load, and any box, package, or 11999
receptacle, and the contents thereof, for the purpose of 12000
determining whether this chapter or a division rule is being 12001
violated. 12002

The word "fish" in the English language, at least eight 12003

inches high and maintained in a clear, conspicuous, and legible 12004
condition at all times, shall appear on both sides of the vehicle 12005
body of all vehicles transporting fresh water fish in this state 12006
when the fish are for sale or sold, except those fish exempt from 12007
a transportation permit in divisions (A), (B), and (E) of this 12008
section. 12009

The chief may refuse to issue a permit to any person whose 12010
purpose in applying for the permit is to allow it to be used by 12011
another person to whom a permit has been refused or revoked. The 12012
chief also may revoke a person's permit when it is used for that 12013
purpose. 12014

No civil action may be brought in any court in the state for 12015
the value or agreed price of fish that have escheated to the state 12016
under this section. 12017

No person shall fail to comply with any provision of this 12018
section or a division rule adopted pursuant thereto. 12019

In addition to other penalties provided in the Revised Code, 12020
the permit of any person who is convicted of two violations of 12021
this section that occurred within a twelve-month period is 12022
suspended upon the second such conviction by operation of law for 12023
a period of five fishing season days immediately following that 12024
conviction. 12025

In addition to other penalties provided in the Revised Code, 12026
the permit of any person who is convicted of three or more 12027
violations of this section that occurred within a twelve-month 12028
period is suspended upon the third or subsequent conviction by 12029
operation of law for a period of twenty fishing season days 12030
immediately following that conviction. 12031

During any period of suspension, no person shall use or 12032
engage in hauling or transporting fish with equipment owned, used, 12033
or controlled at the time of conviction by the permittee whose 12034

permit has been suspended. 12035

Sec. 1533.32. Except as provided in this section or division 12036
(A) or (C) of section 1533.12 of the Revised Code, no person, 12037
including nonresidents, shall take or catch any fish by angling in 12038
any of the waters in the state or engage in fishing in those 12039
waters without a license. No person shall take or catch frogs or 12040
turtles without a valid fishing license, except as provided in 12041
this section. Persons fishing in privately owned ponds, lakes, or 12042
reservoirs to or from which fish are not accustomed to migrate are 12043
exempt from the license requirements set forth in this section. 12044
Persons fishing in privately owned ponds, lakes, or reservoirs 12045
that are open to public fishing through an agreement or lease with 12046
the division of wildlife shall comply with the license 12047
requirements set forth in this section. 12048

The fee for an annual license shall be ~~twenty-three~~ 12049
thirty-nine dollars, unless otherwise provided by division rule, 12050
for a resident of a state that is not a party to an agreement 12051
under section 1533.91 of the Revised Code. The fee for an annual 12052
license shall be ~~fourteen~~ eighteen dollars, unless otherwise 12053
provided by division rule, for a resident of a state that is a 12054
party to such an agreement. The fee for an annual license for 12055
residents of this state shall be ~~fourteen~~ eighteen dollars unless 12056
otherwise provided by division rule or unless the rules adopted 12057
under division (B) of section 1533.12 of the Revised Code provide 12058
for issuance of a resident fishing license to the applicant free 12059
of charge. 12060

Any person under the age of sixteen years may take or catch 12061
frogs and turtles and take or catch fish by angling without a 12062
license. ~~Any~~ Except as provided in rules adopted under division 12063
(B)(2) of section 1533.12 of the Revised Code, each applicant who 12064
is a resident of this state and who at the time of application is 12065

sixty-six years of age or older ~~may take or catch frogs and~~ 12066
~~turtles without~~ shall procure a special senior fishing license, 12067
the fee for which shall be one-half of the annual resident fishing 12068
license fee. 12069

The chief of the division of wildlife may issue a tourist's 12070
license expiring three days from the effective date of the license 12071
to a resident of a state that is not a party to an agreement under 12072
section 1533.91 of the Revised Code. The fee for a tourist's 12073
license shall be ~~fourteen~~ eighteen dollars unless otherwise 12074
provided by division rule. 12075

The chief shall adopt rules under section 1531.10 of the 12076
Revised Code providing for the issuance of a one-day fishing 12077
license to a resident of this state or of any other state. The fee 12078
for such a license shall be ~~forty~~ fifty-five per cent of the 12079
amount established under this section for a tourist's license, 12080
rounded up to the nearest whole dollar. A one-day fishing license 12081
shall allow the holder to take or catch fish by angling in the 12082
waters in the state, engage in fishing in those waters, or take or 12083
catch frogs or turtles in those waters for one day without 12084
obtaining an annual license or a tourist's license under this 12085
section. At the request of a holder of a one-day fishing license 12086
who wishes to obtain an annual license, a clerk or agent 12087
authorized to issue licenses under section 1533.13 of the Revised 12088
Code, not later than the last day on which the one-day license 12089
would be valid if it were an annual license, shall credit the 12090
amount of the fee paid for the one-day license toward the fee 12091
charged for the annual license if so authorized by the chief. The 12092
clerk or agent shall issue the annual license upon presentation of 12093
the one-day license and payment of a fee in an amount equal to the 12094
difference between the fee for the annual license and the fee for 12095
the one-day license. 12096

A fee of one dollar for each license issued under this 12097

section shall be paid to the issuing clerk or agent in accordance 12098
with section 1533.13 of the Revised Code unless otherwise provided 12099
by division rule. 12100

Unless otherwise provided by division rule, each annual 12101
license shall begin on the first day of March of the current year 12102
and expire on the last day of February of the following year. 12103

No person shall alter a fishing license or possess a fishing 12104
license that has been altered. 12105

No person shall procure or attempt to procure a fishing 12106
license by fraud, deceit, misrepresentation, or any false 12107
statement. 12108

Owners of land over, through, upon, or along which any water 12109
flows or stands, except where the land is in or borders on state 12110
parks or state-owned lakes, together with the members of the 12111
immediate families of such owners, may take frogs and turtles and 12112
may take or catch fish of the kind permitted to be taken or caught 12113
therefrom without procuring a license provided for in this 12114
section. This exemption extends to tenants actually residing upon 12115
such lands and to the members of the immediate families of the 12116
tenants. Residents of state or county institutions, charitable 12117
institutions, and military homes in this state may take frogs and 12118
turtles without procuring the required license, provided that a 12119
member of the institution or home has an identification card, 12120
which shall be carried on that person when fishing. 12121

Every fisher required to be licensed, while fishing or taking 12122
or attempting to take frogs or turtles, shall carry the license 12123
and exhibit it to any person. Failure to so carry and exhibit the 12124
license constitutes an offense under this section. 12125

Sec. 1533.35. (A) Commercial fishing devices shall be 12126
annually licensed as follows: 12127

(1) Trap and fyke nets, for the first twenty nets or any portion thereof, eight hundred dollars; and for each additional group of ten such nets or any portion thereof, four hundred dollars;	12128 12129 12130 12131
(2) For each seine of one hundred fifty rods or less in length other than an inland fishing district seine, four hundred dollars;	12132 12133 12134
(3) For each seine over one hundred fifty rods in length other than an inland fishing district seine, six hundred dollars;	12135 12136
(4) For each inland fishing district seine, one hundred dollars;	12137 12138
(5) For each carp apron, one hundred dollars;	12139
(6) For one trotline with seventy hooks or less attached thereto, twenty dollars;	12140 12141
(7) For each trotline, or trotlines, with a total of more than seventy hooks attached thereto, one hundred dollars;	12142 12143
(8) For each dip net, one hundred dollars.	12144
The license fee for other commercial fishing gear not mentioned in this section, as approved by the chief of the division of wildlife, shall be set by the chief with approval of the wildlife council.	12145 12146 12147 12148
Commercial fishing gear owned or used by a nonresident may be licensed in this state only if a reciprocal agreement is in effect as provided for in section 1533.352 of the Revised Code.	12149 12150 12151
All commercial license fees shall be paid upon application or shall be paid one-fourth upon application with the balance due and owing within ninety days of the date of application, except that those license fees of one hundred dollars or less shall be paid in full at the time of application.	12152 12153 12154 12155 12156

(B) Royalty fees are hereby established ~~as set forth~~ on the 12157
following species of fish when taken commercially: catfish, white 12158
bass, and yellow perch. 12159

The amount of the royalty fees shall be as follows: on the 12160
species taken for which an allowable catch or quota has been 12161
established by division rule, ~~two~~ five cents per pound. On the 12162
species taken for which an allowable catch or quota has not been 12163
established by division rule, ~~one cent~~ two cents per pound ~~on that~~ 12164
~~portion taken that exceeds one half of the previous year's taking~~ 12165
~~of the species.~~ 12166

~~For the purpose of this section, the previous year's taking~~ 12167
~~shall be the amount reported for that previous year by the license~~ 12168
~~holder to the division pursuant to reporting procedures set forth~~ 12169
~~in this chapter and Chapter 1531. of the Revised Code.~~ 12170

All royalty fees established or provided for in this section 12171
shall be paid by the license holder to the division. No person may 12172
be issued a commercial fishing license until all royalty fees due 12173
from that person for the preceding fishing season have been paid 12174
in full. The chief may request the attorney general to recover any 12175
royalty fee or amount thereof that is not paid by the opening date 12176
of the next fishing season, and the attorney general shall 12177
commence appropriate legal proceedings to recover the unpaid fee 12178
or amount. 12179

All commercial fishing license moneys and all other fees 12180
collected from commercial ~~fishermen~~ fishers shall be deposited in 12181
the state treasury in accordance with section 1533.33 of the 12182
Revised Code. 12183

No person shall fail to comply with any provision of this 12184
section or a division rule adopted pursuant to it. 12185

In addition to other penalties provided in the Revised Code, 12186
the license of any person who is convicted of one or more 12187

violations of this section shall be suspended upon the conviction 12188
by operation of law for a period of eighteen fishing season months 12189
immediately following the conviction. 12190

During any period of suspension, no person shall use or 12191
engage in fishing with commercial gear owned, used, or controlled 12192
at the time of conviction by the licensee whose license has been 12193
suspended. 12194

Sec. 1533.40. Each person, firm, partnership, association, or 12195
corporation ~~which~~ that buys, sells, or deals in minnows, crayfish, 12196
or hellgrammites or collects the listed species for sale shall 12197
obtain, annually, from the chief of the division of wildlife a 12198
permit and shall operate under such rules as the chief ~~of the~~ 12199
~~division of wildlife prescribes~~ adopts. ~~Such~~ A permit shall be 12200
issued upon application and the payment of a fee of ~~twenty-five~~ 12201
forty dollars. This permit expires at midnight, on the 12202
thirty-first day of December ~~31~~. Nonresidents engaging in the 12203
collecting, seining, or picking of minnows, crayfish, or 12204
hellgrammites for bait shall have a nonresident fishing license as 12205
prescribed in section 1533.32 of the Revised Code. 12206

Sec. 1533.54. No person shall draw, set, place, locate, 12207
maintain, or possess a pound net, crib net, trammel net, fyke net, 12208
set net, seine, bar net, or fish trap, or any part thereof, or 12209
throw or hand line, with more than three hooks attached thereto, 12210
or any other device for catching fish, except a line with not more 12211
than three hooks attached thereto or lure with not more than three 12212
sets of three hooks each, in the inland fishing district of this 12213
state, except for taking carp, mullet, sheepshead, and grass pike 12214
as provided in section 1533.62 of the Revised Code, and except as 12215
provided in section 1533.60 of the Revised Code, or as otherwise 12216
provided for by division rule. No person shall catch or kill a 12217
fish in that fishing district with what are known as bob lines, 12218

trotlines, or float lines, or by grabbing with the hands, or by 12219
spearing or shooting, or with any other device other than by 12220
angling. In the waters of the inland fishing district, except 12221
those lakes, harbors, and reservoirs controlled by the state, a 12222
trotline may be used with not more than fifty hooks, and no two 12223
hooks less than three feet apart, by the owner or person having 12224
the owner's consent in that part of the stream bordering on or 12225
running through that owner's lands. 12226

Notwithstanding this section, any resident who is licensed to 12227
fish with nets in the Ohio river may possess fish nets for the 12228
sole purpose of storage, repair, drying, and tarring in the area 12229
between United States route fifty and the Ohio river from the 12230
Indiana state line to Cincinnati, Ohio, and in the area between 12231
United States route fifty-two and the Ohio river from Cincinnati, 12232
Ohio, to Chesapeake, Ohio, and in the area between state route 12233
seven and the Ohio river from Chesapeake, Ohio, to East Liverpool, 12234
Ohio. 12235

Any person possessing a net in this reserve district shall 12236
have an Ohio permit for each net in ~~his~~ the person's possession. 12237
The permit shall be issued annually by the chief of the division 12238
of wildlife upon application of the owner of the net and 12239
submission of evidence by ~~him~~ the owner of ~~his~~ possession of a 12240
valid fishing license permitting ~~him~~ the owner to fish with nets 12241
in the Ohio river, and the payment of ~~ten~~ fifty dollars for each 12242
net for which an application is made and a permit is issued. The 12243
permit shall expire at twelve midnight on the fifteenth day of 12244
March of each year. 12245

Sec. 1533.631. Any person may apply for a permit to handle 12246
commercial fish, or other fish that may be bought or sold under 12247
the Revised Code or division rule, at wholesale. The chief of the 12248
division of wildlife shall issue an annual permit granting the 12249

applicant the privilege to handle such fish at wholesale at one or 12250
more designated premises upon filing of an application on a form 12251
prescribed by the chief and payment of a fee of ~~fifty~~ sixty-five 12252
dollars. No person or ~~his~~ a person's agent shall handle at 12253
wholesale any fresh water fish or part thereof unless a permit has 12254
been issued for the calendar year in which the fish is handled at 12255
wholesale for the premises at which the fish is handled. 12256

A fish is handled at wholesale for purposes of this section 12257
when it is on a premises within the state and is being held, 12258
stored, handled, or processed for the purpose of sale to a person 12259
who ordinarily resells the fish. 12260

The permit required by this section shall be issued subject 12261
to the right of entry and inspection of the designated premises of 12262
the permittee by any law enforcement officer authorized by section 12263
1531.13 of the Revised Code to enforce the laws and rules of the 12264
division of wildlife. Such an officer may enter and inspect the 12265
designated premises and any box, package, or receptacle, and the 12266
contents thereof, for the purpose of determining whether any 12267
provision of this chapter or Chapter 1531. of the Revised Code or 12268
division rule is being violated. 12269

No person holding a permit under this section shall remove a 12270
label required by section 1533.301 of the Revised Code unless the 12271
box, package, or receptacle bearing the label has been opened or 12272
unless the label is replaced with another label that meets the 12273
requirements of that section. 12274

No person shall fail to comply with any provision of this 12275
section or division rule adopted pursuant to it. 12276

In addition to other penalties provided in the Revised Code, 12277
the permit of any person who is convicted of two violations of 12278
this section that occurred within a twelve-month period is 12279
suspended upon the second such conviction by operation of law for 12280

a period of five fishing season days immediately following that conviction. 12281
12282

In addition to other penalties provided in the Revised Code, 12283
the permit of any person who is convicted of three or more 12284
violations of this section that occurred within a twelve-month 12285
period is suspended upon the third or subsequent such conviction 12286
by operation of law for a period of twenty fishing season days 12287
immediately following that conviction. 12288

During any period of suspension, no person shall use or 12289
engage in handling commercial fish at wholesale with equipment or 12290
facilities owned, used, or controlled at the time of conviction by 12291
the permittee whose permit has been suspended. 12292

Sec. 1533.632. (A) As used in this section: 12293

(1) "Aquaculture" means a form of agriculture that involves 12294
the propagation and rearing of aquatic species in controlled 12295
environments under private control, including, but not limited to, 12296
for the purpose of sale for consumption as food. 12297

(2) "Aquaculture species" means any aquatic species that may 12298
be raised through aquaculture that is either a class A aquaculture 12299
species or a class B aquaculture species. 12300

(3) "Class A aquaculture species" includes all of the 12301
following: 12302

(a) Trout and salmon (*Onchorhynchus* sp., *Salmo* sp.,
Salvelinus sp.); 12303
12304

(b) Walleye (*Stizostedion vitreum*); 12305

(c) Sauger (*Stizostedion canadense*); 12306

(d) Bluegill (*Lepomis macrochirus*); 12307

(e) Redear sunfish (*Lepomis microlophus*); 12308

(f) Green sunfish (*Lepomis cyanellus*); 12309

(g) White crappie (*Pomoxis annularis*); 12310

(h) Black crappie (*Pomoxis nigromaculatus*); 12311

(i) Blue catfish (*Ictalurus furcatus*); 12312

(j) Any species added by rule under division (B) of this 12313
section or listed as commercial fish under section 1531.01 of the 12314
Revised Code except white perch (*Morone americana*). 12315

(4) "Class B aquaculture species" includes any species, 12316
except for class A aquaculture species, designated as such by the 12317
chief of the division of wildlife. 12318

(5) "Aquaculture production facility" means a facility used 12319
for aquaculture. 12320

(B) The chief, in accordance with Chapter 119. of the Revised 12321
Code, shall adopt rules for the regulation of aquaculture and may 12322
issue permits to persons wishing to engage in aquaculture for the 12323
production of aquaculture species. Rules adopted under this 12324
section shall ensure the protection and preservation of the 12325
wildlife and natural resources of this state. The legal length and 12326
weight limitations established under section 1533.63 of the 12327
Revised Code do not apply to class A or class B aquaculture 12328
species. 12329

A permit may be issued upon application to any person who 12330
satisfies the chief that the person has suitable equipment, of 12331
which ~~he~~ the person is the owner or lessee, to engage in 12332
aquaculture for a given aquaculture species or group of 12333
aquaculture species. Each permit shall be in such form as the 12334
chief prescribes. The permits shall be classified as either class 12335
A or class B. A class A permit shall be required for all class A 12336
aquaculture species that are specified in this section or 12337
designated by rule as a class A aquaculture species. Class B 12338
permits shall be issued on a case-by-case basis. In determining 12339

whether to issue a class B permit, the chief shall take into 12340
account the species for which the class B permit is requested, the 12341
location of the aquaculture production facility, and any other 12342
information determined by the chief to be necessary to protect the 12343
wildlife and natural resources of this state. The annual fee for a 12344
class A permit shall be fifty dollars unless otherwise provided by 12345
rule by the chief. The annual fee for a class B permit shall be 12346
set by the chief at a level between one hundred and five hundred 12347
dollars. In determining the fee to be charged for a class B 12348
permit, the chief shall take into account the additional costs to 12349
the division for the inspection of aquaculture facilities used to 12350
raise a given class B aquaculture species. 12351

The chief may revoke a permit upon a determination that the 12352
person to whom the permit was issued has violated any rule adopted 12353
under this section. The permit shall be reissued upon a showing by 12354
the person that ~~he~~ the person is in compliance with the rules 12355
adopted under this section. A holder of an aquaculture permit may 12356
receive a permit issued under section 1533.301, ~~1533.39~~, or 12357
1533.40 of the Revised Code without payment of the fee for that 12358
permit if the conditions for the issuance of the permit have been 12359
met. 12360

(C) No person shall knowingly sell any aquatic species under 12361
an aquaculture permit issued under this section that was not 12362
raised in an aquaculture production facility. In addition to any 12363
other penalties prescribed for violation of this division, the 12364
chief may revoke the permit of any person convicted of a violation 12365
of this division for any period of time ~~he~~ the chief considers 12366
necessary. 12367

(D) No person who does not hold a current valid aquaculture 12368
permit shall knowingly sell an aquaculture species while claiming 12369
to possess an aquaculture permit. 12370

Sec. 1533.71. Unless otherwise provided by division rule, any person desiring to engage in the business of raising and selling game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals in a wholly enclosed preserve of which the person is the owner or lessee, or to have game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals in captivity, shall apply in writing to the division of wildlife for a license to do so.

The division, when it appears that the application is made in good faith and upon the payment of the fee for each license, ~~shall~~ may issue to the applicant any of the following licenses that may be applied for:

(A) "Commercial propagating license" permitting the licensee to propagate game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals in the wholly enclosed preserve the location of which is stated in the license and the application therefor, and to sell the propagated game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals and ship them from the state alive at any time, and permitting the licensee and the licensee's employees to kill the propagated game birds, game quadrupeds, or fur-bearing animals and sell the carcasses for food subject to sections 1533.70 to 1533.80 of the Revised Code. The fee for such a license is ~~twenty-five~~ forty dollars per annum.

(B) "Noncommercial propagating license" permitting the licensee to propagate game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals and to hold the animals in captivity. Game birds, game quadrupeds, reptiles, amphibians, and fur-bearing animals propagated or held in captivity by authority of a noncommercial propagating license are for the licensee's own use and shall not be sold. The fee for such a license is ~~ten~~ twenty-five dollars per annum.

(C) A free "raise to release license" permitting duly organized clubs, associations, or individuals approved by the division to engage in the raising of game birds, game quadrupeds, or fur-bearing animals for release only and not for sale or personal use.

Except as provided by law, no person shall possess game birds, game quadrupeds, or fur-bearing animals in closed season, provided that municipal or governmental zoological parks are not required to obtain the licenses provided for in this section.

All licenses issued under this section shall expire on the fifteenth day of March of each year.

The chief of the division of wildlife shall pay all moneys received as fees for the issuance of licenses under this section into the state treasury to the credit of the fund created by section 1533.15 of the Revised Code for the use of the division in the purchase, preservation, and protection of wild animals and for the necessary clerical help and forms required by sections 1533.70 to 1533.80 of the Revised Code.

This section does not authorize the taking or the release for taking of the following:

(1) Game birds, without first obtaining a commercial bird shooting preserve license issued under section 1533.72 of the Revised Code;

(2) Game or nonnative wildlife, without first obtaining a wild animal hunting preserve license issued under section 1533.721 of the Revised Code.

Sec. 1533.82. (A) On receipt of a notice pursuant to section 3123.43 of the Revised Code, the chief of the division of wildlife shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the

Revised Code with respect to a license, permit, or certificate 12432
issued pursuant to section 1533.23, 1533.34, 1533.342, ~~1533.39,~~ 12433
1533.40, 1533.51, 1533.631, 1533.71, 1533.72, 1533.81, 1533.88, or 12434
1533.881 of the Revised Code. 12435

(B) On receipt of a notice pursuant to section 3123.62 of the 12436
Revised Code, the chief shall comply with that section and any 12437
applicable rules adopted under section 3123.63 of the Revised Code 12438
with respect to a license, permit, or stamp issued pursuant to 12439
section 1533.10, 1533.11, 1533.111, 1533.112, or 1533.32 of the 12440
Revised Code. 12441

Sec. 1561.31. Each As used in this section, "mineral" means 12442
"minerals" as defined in section 1514.01 of the Revised Code. 12443

Each deputy mine inspector shall inspect each mine in the 12444
inspector's district, the owner, lessee, agent, or operator of 12445
which is an employer as defined in section 4123.01 of the Revised 12446
Code, or any other mine at which three or more persons work, ~~at~~ 12447
~~intervals not exceeding three months between inspections.~~ The 12448
inspector shall inspect each underground coal or mineral mine not 12449
less than four times per calendar year, each surface coal or 12450
mineral mine not less than two times per calendar year, and all 12451
other mines in the inspector's district as often as practical, ~~7~~ 12452
~~noting particularly.~~ During each inspection, the inspector shall 12453
provide to the superintendent of the mine information concerning 12454
the health and safety conditions of the mine operation and shall 12455
determine whether the mine operation complies with applicable 12456
health and safety standards and with any citation, order, or 12457
decision issued under this chapter or Chapter 1509., 1563., 1565., 12458
or 1567. of the Revised Code. The inspector shall examine the 12459
location and condition of buildings, the condition of the ~~boiler,~~ 12460
machinery, the workings of the mine, the roof control measures, 12461
the traveling ways and haulageways, the circulation and condition 12462

of the air and drainage, and the condition of electrical circuits 12463
and appliances, as applicable. The inspector shall make tests for 12464
poisonous, explosive, and noxious gases, and shall specifically 12465
order compliance with any section of this chapter and Chapters 12466
1563., 1565., and 1567. and sections 1509.09, 1509.12, 1509.13, 12467
1509.14, 1509.15, 1509.17, and 1509.18 of the Revised Code that 12468
the inspector finds is being violated. 12469

Upon completion of the inspection of a mine, the inspector 12470
shall fill out a report of the conditions found during inspections 12471
on a form provided by the chief of the division of mineral 12472
resources management, which form shall provide for statements as 12473
to whether the laws are being observed or violated, and if 12474
violated, the nature and extent thereof, the date of the 12475
inspection, the number of persons employed in and about the mine, 12476
whether or not a certificate of compliance issued pursuant to 12477
section 4123.35 of the Revised Code is posted and the date of 12478
expiration thereof, and matters, things, and practices that 12479
specifically are covered by law, order of the chief, or previous 12480
order of the inspector. The inspector shall make this report in 12481
quadruplicate or quintuplicate, and send the original to the 12482
chief, post a copy at the mine, give a copy to the mine 12483
superintendent, and retain a copy for the inspector's files. Where 12484
the miners of a mine have a mine safety committee, the inspector 12485
shall post one additional copy of the report of that mine at that 12486
mine for the use and possession of the committee. The report 12487
required by this section shall be known as the inspector's routine 12488
report. 12489

If an inspector orders compliance with this chapter and 12490
Chapters 1563., 1565., and 1567. and sections 1509.09, 1509.12, 12491
1509.13, 1509.14, 1509.15, 1509.17, and 1509.18 of the Revised 12492
Code, and is assured by the superintendent of the mine to which 12493
the order applies that the order will be complied with, the 12494

inspector shall revisit the mine within a reasonable period of 12495
time and ascertain whether or not the order has been complied 12496
with. The inspector shall report the inspector's findings to the 12497
chief on a form to be provided by the chief, and take action to 12498
enforce compliance. 12499

Sec. 1561.35. If the deputy mine inspector finds that any 12500
matter, thing, or practice connected with any mine and not 12501
prohibited specifically by law is dangerous or hazardous, or that 12502
from a rigid enforcement of this chapter and Chapters 1509., 12503
1563., 1565., and 1567. of the Revised Code, the matter, thing, or 12504
practice would become dangerous and hazardous so as to tend to the 12505
bodily injury of any person, the deputy mine inspector forthwith 12506
shall give notice in writing to the owner, lessee, or agent of the 12507
mine of the particulars in which the deputy mine inspector 12508
considers the mine or any matter, thing, or practice connected 12509
therewith is dangerous or hazardous and recommend changes that the 12510
conditions require, and forthwith shall mail a copy of the report 12511
and the deputy mine inspector's recommendations to the chief of 12512
the division of mineral resources management. Upon receipt of the 12513
report and recommendations, the chief forthwith shall make a 12514
finding thereon and mail a copy to the owner, operator, lessee, or 12515
agent of the mine, and to the deputy mine inspector; a copy of the 12516
finding of the chief shall be posted upon the bulletin board of 12517
the mine. Where the miners have a mine safety committee, one 12518
additional copy shall be posted on the bulletin board for the use 12519
and possession of the committee. 12520

The owner, operator, lessee, or agent of the mine, or the 12521
authorized representative of the workers of the mine, within ten 12522
days may appeal to the ~~reclamation~~ environmental review appeals 12523
commission created in section 3745.02 of the Revised Code for a 12524
review and redetermination of the finding of the chief in the 12525
matter in accordance with section 1513.13 of the Revised Code, 12526

notwithstanding division (A)(1) of that section, which provides 12527
for appeals within thirty days. A copy of the decision of the 12528
commission shall be mailed as required by this section for the 12529
mailing of the finding by the chief on the deputy mine inspector's 12530
report. 12531

Sec. 1561.351. A deputy mine inspector who makes a finding 12532
concerning a violation of this chapter or Chapter 1563., 1565., or 12533
1567. or section 1509.09, 1509.12, 1509.13, 1509.14, 1509.15, 12534
1509.17, or 1509.18 of the Revised Code that involves mining 12535
safety shall notify the owner, operator, lessee, agent, and 12536
representative of the miners of the mine involved of the finding. 12537
The owner, operator, lessee, or agent of the mine involved may 12538
request a review of the inspector's finding by the chief of the 12539
division of mineral resources management. Upon receipt of such a 12540
request, the chief shall review the inspector's finding, make a 12541
written determination regarding it, and provide a copy of the 12542
written determination to the owner, operator, lessee, or agent of 12543
the mine involved. The chief shall provide a copy of the written 12544
determination to any other interested party upon request. 12545

A person, such as an owner, operator, lessee, or agent of the 12546
mine or the authorized representative of the miners of the mine, 12547
who has an interest that is or may be adversely affected by the 12548
chief's determination may appeal the determination, not later than 12549
ten days after receiving notice of the determination, to the 12550
~~reclamation~~ environmental review appeals commission created in 12551
section 3745.02 of the Revised Code by filing a copy of the 12552
chief's written determination with the commission, notwithstanding 12553
division (A)(1) of section 1513.13 of the Revised Code, which 12554
provides for appeals within thirty days. The commission shall hear 12555
the appeal in accordance with section 1513.13 of the Revised Code. 12556

Sec. 1561.51. When written charges of neglect of duty, 12557

incompetency, or malfeasance in office against the deputy mine 12558
inspector are filed with the chief of the division of mineral 12559
resources management, signed by not less than fifteen employees, 12560
or otherwise as provided in section 1561.50 of the Revised Code, 12561
or the owner, lessee, or agent of a mine, and the signers of the 12562
charges are dissatisfied with the result of the investigation made 12563
by the chief, they may appeal to the ~~reclamation~~ environmental 12564
review appeals commission created in section 3745.02 of the 12565
Revised Code by filing the same charges against the deputy mine 12566
inspector and a copy of the report of the investigation made by 12567
the chief in the matter with the commission, and the commission 12568
shall hear the appeal in accordance with section 1513.13 of the 12569
Revised Code. The commission shall mail a copy of its decision to 12570
the complainant whose name appears first in the charges. 12571

Sec. 1563.13. When a deputy mine inspector considers that the 12572
ways and means of egress in any underground mine from the interior 12573
working places to the surface are inadequate as a safe and ready 12574
means of escape in case of emergency, from danger of fire at any 12575
point, or any other cause that may result in the entombment of 12576
persons working in the mine, the deputy mine inspector shall give 12577
notice in writing to the owner, lessee, or agent of the mine of 12578
the particular in which the deputy mine inspector considers the 12579
conditions dangerous, recommending any changes that the conditions 12580
require, and forthwith shall mail a copy of the deputy mine 12581
inspector's recommendations to the chief of the division of 12582
mineral resources management. Upon receipt of the recommendations, 12583
the chief forthwith shall make a finding concerning them and mail 12584
a copy to the operator of the mine and to the deputy mine 12585
inspector. A copy of the finding of the chief shall be posted upon 12586
the bulletin board at the time. 12587

The operator of the mine, or the authorized representative of 12588
the workers of the mine, within ten days may appeal to the 12589

reclamation environmental review appeals commission created in 12590
section 3745.02 of the Revised Code for a review and 12591
redetermination of the finding of the chief in the matter in 12592
accordance with section 1513.13 of the Revised Code, 12593
notwithstanding division (A)(1) of that section, which provides 12594
for appeals within thirty days. A copy of the decision of the 12595
commission shall be mailed as required by this section for the 12596
mailing of the finding by the chief on the deputy mine inspector's 12597
report. 12598

No operator of a mine shall refuse or neglect to comply with 12599
this section. 12600

Sec. 1563.42. The operator of a mine, before the pillars are 12601
drawn previous to the abandonment of any part of the mine, shall 12602
have a correct map of such part of the mine made, showing its area 12603
and workings to the day of the abandonment and the pillars drawn 12604
previous to abandonment, and file such map within ninety days 12605
after the abandonment of such mine, in the office of the county 12606
recorder of the county where such mine is located, and with the 12607
chief of the division of mineral resources management. Such map 12608
shall have attached the usual certificate of the mining engineer 12609
making it, and the mine foreperson in charge of the underground 12610
workings of the mine, and such operator shall pay to the recorder 12611
for filing such map, a base fee of five dollars for services and a 12612
housing trust fee of five dollars pursuant to section 317.36 of 12613
the Revised Code. 12614

No operator of a mine shall refuse or neglect to comply with 12615
this section. 12616

Sec. 1702.59. (A) Every nonprofit corporation, incorporated 12617
under the general corporation laws of this state, or previous 12618
laws, or under special provisions of the Revised Code, or created 12619

before September 1, 1851, which corporation has expressly or 12620
impliedly elected to be governed by the laws passed since that 12621
date, and whose articles or other documents are filed with the 12622
secretary of state, shall file with the secretary of state a 12623
verified statement of continued existence, signed by a director, 12624
officer, or three members in good standing, setting forth the 12625
corporate name, the place where the principal office of the 12626
corporation is located, the date of incorporation, the fact that 12627
the corporation is still actively engaged in exercising its 12628
corporate privileges, and the name and address of its agent 12629
appointed pursuant to section 1702.06 of the Revised Code. 12630

(B) Each corporation required to file a statement of 12631
continued existence shall file it with the secretary of state 12632
within each five years after the date of incorporation or of the 12633
last corporate filing. 12634

(C) Corporations specifically exempted by division (N) of 12635
section 1702.06 of the Revised Code, or whose activities are 12636
regulated or supervised by another state official, agency, bureau, 12637
department, or commission are exempted from this section. 12638

(D) The secretary of state shall give notice in writing and 12639
provide a form for compliance with this section to each 12640
corporation required by this section to file the statement of 12641
continued existence, such notice and form to be mailed to the last 12642
known address of the corporation as it appears on the records of 12643
the secretary of state or which the secretary of state may 12644
ascertain upon a reasonable search. 12645

(E) If any nonprofit corporation required by this section to 12646
file a statement of continued existence fails to file the 12647
statement required every fifth year, then the secretary of state 12648
shall cancel the articles of such corporation, make a notation of 12649
the cancellation on the records, and mail to the corporation a 12650
certificate of the action so taken. 12651

(F) A corporation whose articles have been canceled may be reinstated by filing an application for reinstatement and paying to the secretary of state the fee specified in division (Q) of section 111.16 of the Revised Code. The name of a corporation whose articles have been canceled shall be reserved for a period of one year after the date of cancellation. If the reinstatement is not made within one year from the date of the cancellation of its articles of incorporation and it appears that a corporate name, limited liability company name, limited liability partnership name, limited partnership name, or trade name has been filed, the name of which is not distinguishable upon the record as provided in section 1702.06 of the Revised Code, the applicant for reinstatement shall be required by the secretary of state, as a condition prerequisite to such reinstatement, to amend its articles by changing its name. A certificate of reinstatement may be filed in the recorder's office of any county in the state, for which the recorder shall charge and collect a base fee of one dollar for services and a housing trust fund fee of one dollar pursuant to section 317.36 of the Revised Code. The rights, privileges, and franchises of a corporation whose articles have been reinstated are subject to section 1702.60 of the Revised Code.

(G) The secretary of state shall furnish the tax commissioner a list of all corporations failing to file the required statement of continued existence.

Sec. 2101.16. (A) The fees enumerated in this division shall be charged and collected, if possible, by the probate judge and shall be in full for all services rendered in the respective proceedings:

- (1) Account, in addition to advertising charges \$12.00
- Waivers and proof of notice of hearing on account, per

page, minimum one dollar	\$ 1.00	12683
(2) Account of distribution, in addition to advertising charges	\$ 7.00	12685
(3) Adoption of child, petition for	\$50.00	12686
(4) Alter or cancel contract for sale or purchase of real estate, petition to	\$20.00	12688
(5) Application and order not otherwise provided for in this section or by rule adopted pursuant to division (E) of this section	\$ 5.00	12691
(6) Appropriation suit, per day, hearing in	\$20.00	12692
(7) Birth, application for registration of	\$ 7.00	12693
(8) Birth record, application to correct	\$ 5.00	12694
(9) Bond, application for new or additional	\$ 5.00	12695
(10) Bond, application for release of surety or reduction of	\$ 5.00	12697
(11) Bond, receipt for securities deposited in lieu of	\$ 5.00	12698
(12) Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar	\$ 1.00	12700
(13) Citation and issuing citation, application for	\$ 5.00	12701
(14) Change of name, petition for	\$20.00	12702
(15) Claim, application of administrator or executor for allowance of administrator's or executor's own	\$10.00	12704
(16) Claim, application to compromise or settle	\$10.00	12705
(17) Claim, authority to present	\$10.00	12706
(18) Commissioner, appointment of	\$ 5.00	12707
(19) Compensation for extraordinary services and attorney's fees for fiduciary, application for	\$ 5.00	12709
(20) Competency, application to procure adjudication of ...	\$20.00	12710
(21) Complete contract, application to	\$10.00	12711
(22) Concealment of assets, citation for	\$10.00	12712
(23) Construction of will, petition for	\$20.00	12713
(24) Continue decedent's business, application to	\$10.00	12714
Monthly reports of operation	\$ 5.00	12715

(25) Declaratory judgment, petition for	\$20.00	12716
(26) Deposit of will	\$ 5.00	12717
(27) Designation of heir	\$20.00	12718
(28) Distribution in kind, application, assent, and order for	\$ 5.00	12719 12720
(29) Distribution under section 2109.36 of the Revised Code, application for an order of	\$ 7.00	12721 12722
(30) Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee, fifteen dollars	\$15.00	12723 12724 12725
(31) Exceptions to any proceeding named in this section, contest of appointment or	\$10.00	12726 12727
(32) Election of surviving partner to purchase assets of partnership, proceedings relating to	\$10.00	12728 12729
(33) Election of surviving spouse under will	\$ 5.00	12730
(34) Fiduciary, including an assignee or trustee of an insolvent debtor or any guardian or conservator accountable to the probate court, appointment of	\$35.00	12731 12732 12733
(35) Foreign will, application to record	\$10.00	12734
Record of foreign will, additional, per page	\$ 1.00	12735
(36) Forms when supplied by the probate court, not to exceed	\$10.00	12736 12737
(37) Heirship, petition to determine	\$20.00	12738
(38) Injunction proceedings	\$20.00	12739
(39) Improve real estate, petition to	\$20.00	12740
(40) Inventory with appraisalment	\$10.00	12741
(41) Inventory without appraisalment	\$ 7.00	12742
(42) Investment or expenditure of funds, application for ..	\$10.00	12743
(43) Invest in real estate, application to	\$10.00	12744
(44) Lease for oil, gas, coal, or other mineral, petition to	\$20.00	12745 12746
(45) Lease or lease and improve real estate, petition to ..	\$20.00	12747
(46) Marriage license	\$10.00	12748

	Certified abstract of each marriage	\$ 2.00	12749
(47)	Minor or mentally ill person, etc., disposal of estate under ten thousand dollars of	\$10.00	12750 12751
(48)	Mortgage or mortgage and repair or improve real estate, petition to	\$20.00	12752 12753
(49)	Newly discovered assets, report of	\$ 7.00	12754
(50)	Nonresident executor or administrator to bar creditors' claims, proceedings by	\$20.00	12755 12756
(51)	Power of attorney or revocation of power, bonding company	\$10.00	12757 12758
(52)	Presumption of death, petition to establish	\$20.00	12759
(53)	Probating will	\$15.00	12760
	Proof of notice to beneficiaries	\$ 5.00	12761
(54)	Purchase personal property, application of surviving spouse to	\$10.00	12762 12763
(55)	Purchase real estate at appraised value, petition of surviving spouse to	\$20.00	12764 12765
(56)	Receipts in addition to advertising charges, application and order to record	\$ 5.00	12766 12767
	Record of those receipts, additional, per page	\$ 1.00	12768
(57)	Record in excess of fifteen hundred words in any proceeding in the probate court, per page	\$ 1.00	12769 12770
(58)	Release of estate by mortgagee or other lienholder ...	\$ 5.00	12771
(59)	Relieving an estate from administration under section 2113.03 of the Revised Code or granting an order for a summary release from administration under section 2113.031 of the Revised Code	\$60.00	12772 12773 12774 12775
(60)	Removal of fiduciary, application for	\$10.00	12776
(61)	Requalification of executor or administrator	\$10.00	12777
(62)	Resignation of fiduciary	\$ 5.00	12778
(63)	Sale bill, public sale of personal property	\$10.00	12779
(64)	Sale of personal property and report, application for	\$10.00	12780 12781

(65) Sale of real estate, petition for	\$25.00	12782
(66) Terminate guardianship, petition to	\$10.00	12783
(67) Transfer of real estate, application, entry, and certificate for	\$ 7.00	12784 12785
(68) Unclaimed money, application to invest	\$ 7.00	12786
(69) Vacate approval of account or order of distribution, motion to	\$10.00	12787 12788
(70) Writ of execution	\$ 5.00	12789
(71) Writ of possession	\$ 5.00	12790
(72) Wrongful death, application and settlement of claim for	\$20.00	12791 12792
(73) Year's allowance, petition to review	\$ 7.00	12793
(74) Guardian's report, filing and review of	\$ 5.00	12794

(B)(1) In relation to an application for the appointment of a guardian or the review of a report of a guardian under section 2111.49 of the Revised Code, the probate court, pursuant to court order or in accordance with a court rule, may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.041 or division (A)(2) of section 2111.49 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that an alleged incompetent or a ward is indigent, the court may waive the costs, fees, and expenses of an investigation.

(2) In relation to the appointment or functioning of a guardian for a minor or the guardianship of a minor, the probate court may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.042 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury.

If the court finds that the guardian or applicant is indigent, the 12814
court may waive the costs, fees, and expenses of an investigation. 12815

(C) Thirty dollars of the thirty-five-dollar fee collected 12816
pursuant to division (A)(34) of this section and twenty dollars of 12817
the sixty-dollar fee collected pursuant to division (A)(59) of 12818
this section shall be deposited by the county treasurer in the 12819
indigent guardianship fund created pursuant to section 2111.51 of 12820
the Revised Code. 12821

(D) The fees of witnesses, jurors, sheriffs, coroners, and 12822
constables for services rendered in the probate court or by order 12823
of the probate judge shall be the same as provided for like 12824
services in the court of common pleas. 12825

(E) The probate court, by rule, may require an advance 12826
deposit for costs, not to exceed one hundred twenty-five dollars, 12827
at the time application is made for an appointment as executor or 12828
administrator or at the time a will is presented for probate. 12829

(F) The probate court, by rule, shall establish a reasonable 12830
fee, not to exceed fifty dollars, for the filing of a petition for 12831
the release of information regarding an adopted person's name by 12832
birth and the identity of the adopted person's biological parents 12833
and biological siblings pursuant to section 3107.41 of the Revised 12834
Code, all proceedings relative to the petition, the entry of an 12835
order relative to the petition, and all services required to be 12836
performed in connection with the petition. The probate court may 12837
use a reasonable portion of a fee charged under authority of this 12838
division to reimburse any agency, as defined in section 3107.39 of 12839
the Revised Code, for any services it renders in performing a task 12840
described in section 3107.41 of the Revised Code relative to or in 12841
connection with the petition for which the fee was charged. 12842

(G)(1) Thirty dollars of the fifty-dollar fee collected 12843
pursuant to division (A)(3) of this section shall be deposited 12844

into the "putative father registry fund," which is hereby created 12845
in the state treasury. The department of job and family services 12846
shall use the money in the fund to fund the department's costs of 12847
performing its duties related to the putative father registry 12848
established under section 3107.062 of the Revised Code. 12849

(2) If the department determines that money in the putative 12850
father registry fund is more than is needed for its duties related 12851
to the putative father registry, the department may use the 12852
surplus moneys in the fund as permitted in division (C) of section 12853
2151.3529, division (B) of section 2151.3530, or section 5103.155 12854
of the Revised Code. 12855

Sec. 2113.041. (A) The administrator of the estate recovery 12856
program established pursuant to section 5111.11 of the Revised 12857
Code may present an affidavit to a financial institution 12858
requesting that the financial institution release account proceeds 12859
to recover the cost of services correctly provided to a medicaid 12860
recipient. The affidavit shall include all of the following 12861
information: 12862

(1) The name of the decedent; 12863

(2) The name of any person who gave notice that the decedent 12864
was a medicaid recipient and that person's relationship to the 12865
decedent; 12866

(3) The name of the financial institution; 12867

(4) The account number; 12868

(5) A description of the claim for estate recovery; 12869

(6) The amount of funds to be recovered. 12870

(B) A financial institution may release account proceeds to 12871
the administrator of the estate recovery program if all of the 12872
following apply: 12873

<u>(1) The decedent held an account at the financial institution</u>	12874
<u>that was in the decedent's name only.</u>	12875
<u>(2) No estate has been, and it is reasonable to assume that</u>	12876
<u>no estate will be, opened for the decedent.</u>	12877
<u>(3) The decedent has no outstanding debts known to the</u>	12878
<u>administrator of the estate recovery program.</u>	12879
<u>(4) The financial institution has received no objections or</u>	12880
<u>has determined that no valid objections to release of proceeds</u>	12881
<u>have been received.</u>	12882
<u>(C) If proceeds have been released pursuant to division (B)</u>	12883
<u>of this section and the department of job and family services</u>	12884
<u>receives notice of a valid claim to the proceeds that has a higher</u>	12885
<u>priority under section 2117.25 of the Revised Code than the claim</u>	12886
<u>of the estate recovery program, the department may refund the</u>	12887
<u>proceeds to the financial institution or pay them to the person or</u>	12888
<u>government entity with the claim.</u>	12889
Sec. 2117.06. (A) All creditors having claims against an	12890
estate, including claims arising out of contract, out of tort, on	12891
cognovit notes, or on judgments, whether due or not due, secured	12892
or unsecured, liquidated or unliquidated, shall present their	12893
claims in one of the following manners:	12894
(1) To the executor or administrator in a writing;	12895
(2) To the executor or administrator in a writing, and to the	12896
probate court by filing a copy of the writing with it;	12897
(3) In a writing that is sent by ordinary mail addressed to	12898
the decedent and that is actually received by the executor or	12899
administrator within the appropriate time specified in division	12900
(B) of this section. For purposes of this division, if an executor	12901
or administrator is not a natural person, the writing shall be	12902
considered as being actually received by the executor or	12903

administrator only if the person charged with the primary 12904
responsibility of administering the estate of the decedent 12905
actually receives the writing within the appropriate time 12906
specified in division (B) of this section. 12907

(B) ~~All~~ Except as provided in section 2117.061 of the Revised 12908
Code, all claims shall be presented within one year after the 12909
death of the decedent, whether or not the estate is released from 12910
administration or an executor or administrator is appointed during 12911
that one-year period. Every claim presented shall set forth the 12912
claimant's address. 12913

(C) ~~A~~ Except as provided in section 2117.061 of the Revised 12914
Code, a claim that is not presented within one year after the 12915
death of the decedent shall be forever barred as to all parties, 12916
including, but not limited to, devisees, legatees, and 12917
distributees. No payment shall be made on the claim and no action 12918
shall be maintained on the claim, except as otherwise provided in 12919
sections 2117.37 to 2117.42 of the Revised Code with reference to 12920
contingent claims. 12921

(D) In the absence of any prior demand for allowance, the 12922
executor or administrator shall allow or reject all claims, except 12923
tax assessment claims, within thirty days after their 12924
presentation, provided that failure of the executor or 12925
administrator to allow or reject within that time shall not 12926
prevent the executor or administrator from doing so after that 12927
time and shall not prejudice the rights of any claimant. Upon the 12928
allowance of a claim, the executor or the administrator, on demand 12929
of the creditor, shall furnish the creditor with a written 12930
statement or memorandum of the fact and date of the allowance. 12931

(E) If the executor or administrator has actual knowledge of 12932
a pending action commenced against the decedent prior to the 12933
decedent's death in a court of record in this state, the executor 12934
or administrator shall file a notice of the appointment of the 12935

executor or administrator in the pending action within ten days 12936
after acquiring that knowledge. If the administrator or executor 12937
is not a natural person, actual knowledge of a pending suit 12938
against the decedent shall be limited to the actual knowledge of 12939
the person charged with the primary responsibility of 12940
administering the estate of the decedent. Failure to file the 12941
notice within the ten-day period does not extend the claim period 12942
established by this section. 12943

(F) This section applies to any person who is required to 12944
give written notice to the executor or administrator of a motion 12945
or application to revive an action pending against the decedent at 12946
the date of the death of the decedent. 12947

(G) Nothing in this section or in section 2117.07 of the 12948
Revised Code shall be construed to reduce the time mentioned in 12949
section 2125.02, 2305.09, 2305.10, 2305.11, 2305.113, or 2305.12 12950
of the Revised Code, provided that no portion of any recovery on a 12951
claim brought pursuant to any of those sections shall come from 12952
the assets of an estate unless the claim has been presented 12953
against the estate in accordance with Chapter 2117. of the Revised 12954
Code. 12955

(H) Any person whose claim has been presented and has not 12956
been rejected after presentment is a creditor as that term is used 12957
in Chapters 2113. to 2125. of the Revised Code. Claims that are 12958
contingent need not be presented except as provided in sections 12959
2117.37 to 2117.42 of the Revised Code, but, whether presented 12960
pursuant to those sections or this section, contingent claims may 12961
be presented in any of the manners described in division (A) of 12962
this section. 12963

(I) If a creditor presents a claim against an estate in 12964
accordance with division (A)(2) of this section, the probate court 12965
shall not close the administration of the estate until that claim 12966
is allowed or rejected. 12967

(J) The probate court shall not require an executor or administrator to make and return into the court a schedule of claims against the estate. 12968
12969
12970

(K) If the executor or administrator makes a distribution of the assets of the estate prior to the expiration of the time for the filing of claims as set forth in this section, the executor or administrator shall provide notice on the account delivered to each distributee that the distributee may be liable to the estate up to the value of the distribution and may be required to return all or any part of the value of the distribution if a valid claim is subsequently made against the estate within the time permitted under this section. 12971
12972
12973
12974
12975
12976
12977
12978
12979

Sec. 2117.061. (A) As used in this section, "person responsible for the estate" means the executor, administrator, commissioner, or person who filed pursuant to section 2113.03 of the Revised Code for release from administration of an estate. 12980
12981
12982
12983

(B) If the decedent was fifty-five years of age or older at the time of death, the person responsible for an estate shall determine whether the decedent was a recipient of medical assistance under Chapter 5111. of the Revised Code. If the decedent was a recipient, the person responsible for the estate shall give written notice to that effect to the administrator of the estate recovery program instituted under section 5111.11 of the Revised Code not later than thirty days after the occurrence of any of the following: 12984
12985
12986
12987
12988
12989
12990
12991
12992

(1) The granting of letters testamentary; 12993

(2) The administration of the estate; 12994

(3) The filing of an application for release from administration or summary release from administration. 12995
12996

(C) The estate recovery program administrator shall present a 12997

claim for estate recovery to the person responsible for the estate 12998
or the person's legal representative not later than ninety days 12999
after the date on which notice is received under division (B) of 13000
this section or one year after the decedent's death, whichever is 13001
later. 13002

Sec. 2117.25. (A) Every executor or administrator shall 13003
proceed with diligence to pay the debts of the decedent and shall 13004
apply the assets in the following order: 13005

(1) Costs and expenses of administration; 13006

(2) An amount, not exceeding two thousand dollars, for 13007
funeral expenses that are included in the bill of a funeral 13008
director, funeral expenses other than those in the bill of a 13009
funeral director that are approved by the probate court, and an 13010
amount, not exceeding two thousand dollars, for burial and 13011
cemetery expenses, including that portion of the funeral 13012
director's bill allocated to cemetery expenses that have been paid 13013
to the cemetery by the funeral director. 13014

For purposes of this division, burial and cemetery expenses 13015
shall be limited to the following: 13016

(a) The purchase of a place of interment; 13017

(b) Monuments or other markers; 13018

(c) The outer burial container; 13019

(d) The cost of opening and closing the place of interment; 13020

(e) The urn. 13021

(3) The allowance for support made to the surviving spouse, 13022
minor children, or both under section 2106.13 of the Revised Code; 13023

(4) Debts entitled to a preference under the laws of the 13024
United States; 13025

(5) Expenses of the last sickness of the decedent; 13026

(6) If the total bill of a funeral director for funeral expenses exceeds two thousand dollars, then, in addition to the amount described in division (A)(2) of this section, an amount, not exceeding one thousand dollars, for funeral expenses that are included in the bill and that exceed two thousand dollars;

(7) Personal property taxes, claims made under the estate recovery program instituted pursuant to section 5111.11 of the Revised Code, and obligations for which the decedent was personally liable to the state or any of its subdivisions;

(8) Debts for manual labor performed for the decedent within twelve months preceding the decedent's death, not exceeding three hundred dollars to any one person;

(9) Other debts for which claims have been presented and finally allowed.

(B) The part of the bill of a funeral director that exceeds the total of three thousand dollars as described in divisions (A)(2) and (6) of this section, and the part of a claim included in division (A)(8) of this section that exceeds three hundred dollars shall be included as a debt under division (A)(9) of this section, depending upon the time when the claim for the additional amount is presented.

(C) Any natural person or fiduciary who pays a claim of any creditor described in division (A) of this section shall be subrogated to the rights of that creditor proportionate to the amount of the payment and shall be entitled to reimbursement for that amount in accordance with the priority of payments set forth in that division.

(D)(1) Chapters 2113. to 2125. of the Revised Code, relating to the manner in which and the time within which claims shall be presented, shall apply to claims set forth in divisions (A)(2), (6), and (8) of this section. Claims for an expense of

administration or for the allowance for support need not be 13058
presented. The executor or administrator shall pay debts included 13059
in divisions (A)(4) and (7) of this section, of which the executor 13060
or administrator has knowledge, regardless of presentation. 13061

(2) The giving of written notice to an executor or 13062
administrator of a motion or application to revive an action 13063
pending against the decedent at the date of death shall be 13064
equivalent to the presentation of a claim to the executor or 13065
administrator for the purpose of determining the order of payment 13066
of any judgment rendered or decree entered in such an action. 13067

(E) No payments shall be made to creditors of one class until 13068
all those of the preceding class are fully paid or provided for. 13069
If the assets are insufficient to pay all the claims of one class, 13070
the creditors of that class shall be paid ratably. 13071

(F) If it appears at any time that the assets have been 13072
exhausted in paying prior or preferred charges, allowances, or 13073
claims, those payments shall be a bar to an action on any claim 13074
not entitled to that priority or preference. 13075

Sec. 2151.3529. (A) The director of job and family services 13076
shall promulgate forms designed to gather pertinent medical 13077
information concerning a deserted child and the child's parents. 13078
The forms shall clearly and unambiguously state on each page that 13079
the information requested is to facilitate medical care for the 13080
child, that the forms may be fully or partially completed or left 13081
blank, that completing the forms or parts of the forms is 13082
completely voluntary, and that no adverse legal consequence will 13083
result from failure to complete any part of the forms. 13084

(B) The director shall promulgate written materials to be 13085
given to the parents of a child delivered pursuant to section 13086
2151.3516 of the Revised Code. The materials shall describe 13087
services available to assist parents and newborns and shall 13088

include information directly relevant to situations that might 13089
cause parents to desert a child and information on the procedures 13090
for a person to follow in order to reunite with a child the person 13091
delivered under section 2151.3516 of the Revised Code, including 13092
notice that the person will be required to submit to a DNA test, 13093
at that person's expense, to prove that the person is the parent 13094
of the child. 13095

(C) If the department of job and family services determines 13096
that money in the putative father registry fund created under 13097
section 2101.16 of the Revised Code is more than is needed for its 13098
duties related to the putative father registry, the department may 13099
use surplus moneys in the fund for costs related to the 13100
development and publication of forms and materials promulgated 13101
pursuant to divisions (A) and (B) of this section. 13102

Sec. 2151.3530. (A) The director of job and family services 13103
shall distribute the medical information forms and written 13104
materials promulgated under section 2151.3529 of the Revised Code 13105
to entities permitted to receive a deserted child, to public 13106
children services agencies, and to other public or private 13107
agencies that, in the discretion of the director, are best able to 13108
disseminate the forms and materials to the persons who are most in 13109
need of the forms and materials. 13110

(B) If the department of job and family services determines 13111
that money in the putative father registry fund created under 13112
section 2101.16 of the Revised Code is more than is needed to 13113
perform its duties related to the putative father registry, the 13114
department may use surplus moneys in the fund for costs related to 13115
the distribution of forms and materials pursuant to this section. 13116

Sec. 2151.83. (A) A public children services agency or 13117
private child placing agency, on the request of a young adult, 13118

shall enter into a jointly prepared written agreement with the 13119
young adult that obligates the agency to ensure that independent 13120
living services are provided to the young adult and sets forth the 13121
responsibilities of the young adult regarding the services. The 13122
agreement shall be developed based on the young adult's strengths, 13123
needs, and circumstances ~~and the availability of funds provided~~ 13124
~~pursuant to section 2151.84 of the Revised Code.~~ The agreement 13125
shall be designed to promote the young adult's successful 13126
transition to independent adult living and emotional and economic 13127
self-sufficiency. 13128

(B) If the young adult appears to be eligible for services 13129
from one or more of the following entities, the agency must 13130
contact the appropriate entity to determine eligibility: 13131

(1) An entity, other than the agency, that is represented on 13132
a county family and children first council established pursuant to 13133
section 121.37 of the Revised Code. If the entity is a board of 13134
alcohol, drug addiction, and mental health services, an alcohol 13135
and drug addiction services board, or a community mental health 13136
board, the agency shall contact the provider of alcohol, drug 13137
addiction, or mental health services that has been designated by 13138
the board to determine the young adult's eligibility for services. 13139

(2) The rehabilitation services commission; 13140

(3) A metropolitan housing authority established pursuant to 13141
section 3735.27 of the Revised Code. 13142

If an entity described in this division determines that the 13143
young adult qualifies for services from the entity, that entity, 13144
the young adult, and the agency to which the young adult made the 13145
request for independent living services shall enter into a written 13146
addendum to the jointly prepared agreement entered into under 13147
division (A) of this section. The addendum shall indicate how 13148
services under the agreement and addendum are to be coordinated 13149

and allocate the service responsibilities among the entities and 13150
agency that signed the addendum. 13151

Sec. 2151.84. The department of job and family services shall 13152
establish model agreements that may be used by public children 13153
services agencies and private child placing agencies required to 13154
provide services under an agreement with a young adult pursuant to 13155
section 2151.83 of the Revised Code. The model agreements shall 13156
include provisions describing the specific independent living 13157
services to be provided ~~to the extent funds are provided pursuant~~ 13158
~~to this section~~, the duration of the services and the agreement, 13159
the duties and responsibilities of each party under the agreement, 13160
and grievance procedures regarding disputes that arise regarding 13161
the agreement or services provided under it. 13162

~~To facilitate the provision of independent living services,~~ 13163
~~the department shall provide funds to meet the requirement of~~ 13164
~~state matching funds needed to qualify for federal funds under the~~ 13165
~~"Foster Care Independence Act of 1999," 113 Stat. 1822 (1999), 42~~ 13166
~~U.S.C. 677, as amended. The department shall seek controlling~~ 13167
~~board approval of any fund transfers necessary to meet this~~ 13168
~~requirement.~~ 13169

Sec. 2305.234. (A) As used in this section: 13170

(1) "Chiropractic claim," "medical claim," and "optometric 13171
claim" have the same meanings as in section 2305.11 of the Revised 13172
Code. 13173

(2) "Dental claim" has the same meaning as in section 2305.11 13174
of the Revised Code, except that it does not include any claim 13175
arising out of a dental operation or any derivative claim for 13176
relief that arises out of a dental operation. 13177

(3) "Governmental health care program" has the same meaning 13178
as in section 4731.65 of the Revised Code. 13179

(4) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:	13180 13181 13182
(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;	13183 13184 13185
(b) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code;	13186 13187
(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	13188 13189
(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;	13190 13191
(e) Physical therapists licensed under Chapter 4755. of the Revised Code;	13192 13193
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	13194 13195
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	13196 13197
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	13198 13199
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	13200 13201
(j) Pharmacists licensed under Chapter 4729. of the Revised Code.	13202 13203
(5) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants,	13204 13205 13206 13207 13208

dental assistants, orderlies, aides, and individuals acting in 13209
similar capacities. 13210

(6) "Indigent and uninsured person" means a person who meets 13211
all of the following requirements: 13212

(a) The person's income is not greater than one hundred fifty 13213
per cent of the current poverty line as defined by the United 13214
States office of management and budget and revised in accordance 13215
with section 673(2) of the "Omnibus Budget Reconciliation Act of 13216
1981," 95 Stat. 511, 42 U.S.C. 9902, as amended. 13217

(b) The person is not eligible to receive medical assistance 13218
under Chapter 5111., disability ~~assistance~~ medical assistance 13219
under Chapter 5115. of the Revised Code, or assistance under any 13220
other governmental health care program. 13221

(c) Either of the following applies: 13222

(i) The person is not a policyholder, certificate holder, 13223
insured, contract holder, subscriber, enrollee, member, 13224
beneficiary, or other covered individual under a health insurance 13225
or health care policy, contract, or plan. 13226

(ii) The person is a policyholder, certificate holder, 13227
insured, contract holder, subscriber, enrollee, member, 13228
beneficiary, or other covered individual under a health insurance 13229
or health care policy, contract, or plan, but the insurer, policy, 13230
contract, or plan denies coverage or is the subject of insolvency 13231
or bankruptcy proceedings in any jurisdiction. 13232

(7) "Operation" means any procedure that involves cutting or 13233
otherwise infiltrating human tissue by mechanical means, including 13234
surgery, laser surgery, ionizing radiation, therapeutic 13235
ultrasound, or the removal of intraocular foreign bodies. 13236
"Operation" does not include the administration of medication by 13237
injection, unless the injection is administered in conjunction 13238
with a procedure infiltrating human tissue by mechanical means 13239

other than the administration of medicine by injection. 13240

(8) "Nonprofit shelter or health care facility" means a 13241
charitable nonprofit corporation organized and operated pursuant 13242
to Chapter 1702. of the Revised Code, or any charitable 13243
organization not organized and not operated for profit, that 13244
provides shelter, health care services, or shelter and health care 13245
services to indigent and uninsured persons, except that "shelter 13246
or health care facility" does not include a hospital as defined in 13247
section 3727.01 of the Revised Code, a facility licensed under 13248
Chapter 3721. of the Revised Code, or a medical facility that is 13249
operated for profit. 13250

(9) "Tort action" means a civil action for damages for 13251
injury, death, or loss to person or property other than a civil 13252
action for damages for a breach of contract or another agreement 13253
between persons or government entities. 13254

(10) "Volunteer" means an individual who provides any 13255
medical, dental, or other health-care related diagnosis, care, or 13256
treatment without the expectation of receiving and without receipt 13257
of any compensation or other form of remuneration from an indigent 13258
and uninsured person, another person on behalf of an indigent and 13259
uninsured person, any shelter or health care facility, or any 13260
other person or government entity. 13261

(B)(1) Subject to divisions (E) and (F)(3) of this section, a 13262
health care professional who is a volunteer and complies with 13263
division (B)(2) of this section is not liable in damages to any 13264
person or government entity in a tort or other civil action, 13265
including an action on a medical, dental, chiropractic, 13266
optometric, or other health-related claim, for injury, death, or 13267
loss to person or property that allegedly arises from an action or 13268
omission of the volunteer in the provision at a nonprofit shelter 13269
or health care facility to an indigent and uninsured person of 13270
medical, dental, or other health-related diagnosis, care, or 13271

treatment, including the provision of samples of medicine and 13272
other medical products, unless the action or omission constitutes 13273
willful or wanton misconduct. 13274

(2) To qualify for the immunity described in division (B)(1) 13275
of this section, a health care professional shall do all of the 13276
following prior to providing diagnosis, care, or treatment: 13277

(a) Determine, in good faith, that the indigent and uninsured 13278
person is mentally capable of giving informed consent to the 13279
provision of the diagnosis, care, or treatment and is not subject 13280
to duress or under undue influence; 13281

(b) Inform the person of the provisions of this section; 13282

(c) Obtain the informed consent of the person and a written 13283
waiver, signed by the person or by another individual on behalf of 13284
and in the presence of the person, that states that the person is 13285
mentally competent to give informed consent and, without being 13286
subject to duress or under undue influence, gives informed consent 13287
to the provision of the diagnosis, care, or treatment subject to 13288
the provisions of this section. 13289

(3) A physician or podiatrist who is not covered by medical 13290
malpractice insurance, but complies with division (B)(2) of this 13291
section, is not required to comply with division (A) of section 13292
4731.143 of the Revised Code. 13293

(C) Subject to divisions (E) and (F)(3) of this section, 13294
health care workers who are volunteers are not liable in damages 13295
to any person or government entity in a tort or other civil 13296
action, including an action upon a medical, dental, chiropractic, 13297
optometric, or other health-related claim, for injury, death, or 13298
loss to person or property that allegedly arises from an action or 13299
omission of the health care worker in the provision at a nonprofit 13300
shelter or health care facility to an indigent and uninsured 13301
person of medical, dental, or other health-related diagnosis, 13302

care, or treatment, unless the action or omission constitutes 13303
willful or wanton misconduct. 13304

(D) Subject to divisions (E) and (F)(3) of this section and 13305
section 3701.071 of the Revised Code, a nonprofit shelter or 13306
health care facility associated with a health care professional 13307
described in division (B)(1) of this section or a health care 13308
worker described in division (C) of this section is not liable in 13309
damages to any person or government entity in a tort or other 13310
civil action, including an action on a medical, dental, 13311
chiropractic, optometric, or other health-related claim, for 13312
injury, death, or loss to person or property that allegedly arises 13313
from an action or omission of the health care professional or 13314
worker in providing for the shelter or facility medical, dental, 13315
or other health-related diagnosis, care, or treatment to an 13316
indigent and uninsured person, unless the action or omission 13317
constitutes willful or wanton misconduct. 13318

(E)(1) Except as provided in division (E)(2) of this section, 13319
the immunities provided by divisions (B), (C), and (D) of this 13320
section are not available to an individual or to a nonprofit 13321
shelter or health care facility if, at the time of an alleged 13322
injury, death, or loss to person or property, the individuals 13323
involved are providing one of the following: 13324

(a) Any medical, dental, or other health-related diagnosis, 13325
care, or treatment pursuant to a community service work order 13326
entered by a court under division (F) of section 2951.02 of the 13327
Revised Code as a condition of probation or other suspension of a 13328
term of imprisonment or imposed by a court as a community control 13329
sanction pursuant to sections 2929.15 and 2929.17 of the Revised 13330
Code. 13331

(b) Performance of an operation. 13332

(c) Delivery of a baby. 13333

(2) Division (E)(1) of this section does not apply to an individual who provides, or a nonprofit shelter or health care facility at which the individual provides, diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency.

(F)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, or nonprofit shelter or health care facility.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which an individual or a nonprofit shelter or health care facility may be entitled in connection with the provision of emergency or other diagnosis, care, or treatment.

(3) This section does not grant an immunity from tort or other civil liability to an individual or a nonprofit shelter or health care facility for actions that are outside the scope of authority of health care professionals or health care workers.

(4) This section does not affect any legal responsibility of a health care professional or health care worker to comply with any applicable law of this state or rule of an agency of this state.

(5) This section does not affect any legal responsibility of a nonprofit shelter or health care facility to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution, sanitation, health, fire, zoning, or safety.

Sec. 2329.66. (A) Every person who is domiciled in this state may hold property exempt from execution, garnishment, attachment,

or sale to satisfy a judgment or order, as follows: 13364

(1)(a) In the case of a judgment or order regarding money 13365
owed for health care services rendered or health care supplies 13366
provided to the person or a dependent of the person, one parcel or 13367
item of real or personal property that the person or a dependent 13368
of the person uses as a residence. Division (A)(1)(a) of this 13369
section does not preclude, affect, or invalidate the creation 13370
under this chapter of a judgment lien upon the exempted property 13371
but only delays the enforcement of the lien until the property is 13372
sold or otherwise transferred by the owner or in accordance with 13373
other applicable laws to a person or entity other than the 13374
surviving spouse or surviving minor children of the judgment 13375
debtor. Every person who is domiciled in this state may hold 13376
exempt from a judgment lien created pursuant to division (A)(1)(a) 13377
of this section the person's interest, not to exceed five thousand 13378
dollars, in the exempted property. 13379

(b) In the case of all other judgments and orders, the 13380
person's interest, not to exceed five thousand dollars, in one 13381
parcel or item of real or personal property that the person or a 13382
dependent of the person uses as a residence. 13383

(2) The person's interest, not to exceed one thousand 13384
dollars, in one motor vehicle; 13385

(3) The person's interest, not to exceed two hundred dollars 13386
in any particular item, in wearing apparel, beds, and bedding, and 13387
the person's interest, not to exceed three hundred dollars in each 13388
item, in one cooking unit and one refrigerator or other food 13389
preservation unit; 13390

(4)(a) The person's interest, not to exceed four hundred 13391
dollars, in cash on hand, money due and payable, money to become 13392
due within ninety days, tax refunds, and money on deposit with a 13393
bank, savings and loan association, credit union, public utility, 13394

landlord, or other person. Division (A)(4)(a) of this section 13395
applies only in bankruptcy proceedings. This exemption may include 13396
the portion of personal earnings that is not exempt under division 13397
(A)(13) of this section. 13398

(b) Subject to division (A)(4)(d) of this section, the 13399
person's interest, not to exceed two hundred dollars in any 13400
particular item, in household furnishings, household goods, 13401
appliances, books, animals, crops, musical instruments, firearms, 13402
and hunting and fishing equipment, that are held primarily for the 13403
personal, family, or household use of the person; 13404

(c) Subject to division (A)(4)(d) of this section, the 13405
person's interest in one or more items of jewelry, not to exceed 13406
four hundred dollars in one item of jewelry and not to exceed two 13407
hundred dollars in every other item of jewelry; 13408

(d) Divisions (A)(4)(b) and (c) of this section do not 13409
include items of personal property listed in division (A)(3) of 13410
this section. 13411

If the person does not claim an exemption under division 13412
(A)(1) of this section, the total exemption claimed under division 13413
(A)(4)(b) of this section shall be added to the total exemption 13414
claimed under division (A)(4)(c) of this section, and the total 13415
shall not exceed two thousand dollars. If the person claims an 13416
exemption under division (A)(1) of this section, the total 13417
exemption claimed under division (A)(4)(b) of this section shall 13418
be added to the total exemption claimed under division (A)(4)(c) 13419
of this section, and the total shall not exceed one thousand five 13420
hundred dollars. 13421

(5) The person's interest, not to exceed an aggregate of 13422
seven hundred fifty dollars, in all implements, professional 13423
books, or tools of the person's profession, trade, or business, 13424
including agriculture; 13425

(6)(a) The person's interest in a beneficiary fund set apart, appropriated, or paid by a benevolent association or society, as exempted by section 2329.63 of the Revised Code;	13426 13427 13428
(b) The person's interest in contracts of life or endowment insurance or annuities, as exempted by section 3911.10 of the Revised Code;	13429 13430 13431
(c) The person's interest in a policy of group insurance or the proceeds of a policy of group insurance, as exempted by section 3917.05 of the Revised Code;	13432 13433 13434
(d) The person's interest in money, benefits, charity, relief, or aid to be paid, provided, or rendered by a fraternal benefit society, as exempted by section 3921.18 of the Revised Code;	13435 13436 13437 13438
(e) The person's interest in the portion of benefits under policies of sickness and accident insurance and in lump sum payments for dismemberment and other losses insured under those policies, as exempted by section 3923.19 of the Revised Code.	13439 13440 13441 13442
(7) The person's professionally prescribed or medically necessary health aids;	13443 13444
(8) The person's interest in a burial lot, including, but not limited to, exemptions under section 517.09 or 1721.07 of the Revised Code;	13445 13446 13447
(9) The person's interest in the following:	13448
(a) Moneys paid or payable for living maintenance or rights, as exempted by section 3304.19 of the Revised Code;	13449 13450
(b) Workers' compensation, as exempted by section 4123.67 of the Revised Code;	13451 13452
(c) Unemployment compensation benefits, as exempted by section 4141.32 of the Revised Code;	13453 13454

(d) Cash assistance payments under the Ohio works first program, as exempted by section 5107.75 of the Revised Code; 13455
13456

(e) Benefits and services under the prevention, retention, and contingency program, as exempted by section 5108.08 of the Revised Code; 13457
13458
13459

(f) Disability financial assistance payments, as exempted by section ~~5115.07~~ 5115.06 of the Revised Code. 13460
13461

(10)(a) Except in cases in which the person was convicted of or pleaded guilty to a violation of section 2921.41 of the Revised Code and in which an order for the withholding of restitution from payments was issued under division (C)(2)(b) of that section or in cases in which an order for withholding was issued under section 2907.15 of the Revised Code, and only to the extent provided in the order, and except as provided in sections 3105.171, 3105.63, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to a pension, benefit, annuity, retirement allowance, or accumulated contributions, the person's right to a participant account in any deferred compensation program offered by the Ohio public employees deferred compensation board, a government unit, or a municipal corporation, or the person's other accrued or accruing rights, as exempted by section 145.56, 146.13, 148.09, 742.47, 3307.41, 3309.66, or 5505.22 of the Revised Code, and the person's right to benefits from the Ohio public safety officers death benefit fund; 13462
13463
13464
13465
13466
13467
13468
13469
13470
13471
13472
13473
13474
13475
13476
13477
13478

(b) Except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to receive a payment under any pension, annuity, or similar plan or contract, not including a payment from a stock bonus or profit-sharing plan or a payment included in division (A)(6)(b) or (10)(a) of this section, on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for 13479
13480
13481
13482
13483
13484
13485

the support of the person and any of the person's dependents, 13486
except if all the following apply: 13487

(i) The plan or contract was established by or under the 13488
auspices of an insider that employed the person at the time the 13489
person's rights under the plan or contract arose. 13490

(ii) The payment is on account of age or length of service. 13491

(iii) The plan or contract is not qualified under the 13492
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 13493
amended. 13494

(c) Except for any portion of the assets that were deposited 13495
for the purpose of evading the payment of any debt and except as 13496
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 13497
3123.06 of the Revised Code, the person's right in the assets held 13498
in, or to receive any payment under, any individual retirement 13499
account, individual retirement annuity, "Roth IRA," or education 13500
individual retirement account that provides benefits by reason of 13501
illness, disability, death, or age, to the extent that the assets, 13502
payments, or benefits described in division (A)(10)(c) of this 13503
section are attributable to any of the following: 13504

(i) Contributions of the person that were less than or equal 13505
to the applicable limits on deductible contributions to an 13506
individual retirement account or individual retirement annuity in 13507
the year that the contributions were made, whether or not the 13508
person was eligible to deduct the contributions on the person's 13509
federal tax return for the year in which the contributions were 13510
made; 13511

(ii) Contributions of the person that were less than or equal 13512
to the applicable limits on contributions to a Roth IRA or 13513
education individual retirement account in the year that the 13514
contributions were made; 13515

(iii) Contributions of the person that are within the 13516

applicable limits on rollover contributions under subsections 219, 13517
402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3)(B), 13518
408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 1986," 13519
100 Stat. 2085, 26 U.S.C.A. 1, as amended. 13520

(d) Except for any portion of the assets that were deposited 13521
for the purpose of evading the payment of any debt and except as 13522
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 13523
3123.06 of the Revised Code, the person's right in the assets held 13524
in, or to receive any payment under, any Keogh or "H.R. 10" plan 13525
that provides benefits by reason of illness, disability, death, or 13526
age, to the extent reasonably necessary for the support of the 13527
person and any of the person's dependents. 13528

(11) The person's right to receive spousal support, child 13529
support, an allowance, or other maintenance to the extent 13530
reasonably necessary for the support of the person and any of the 13531
person's dependents; 13532

(12) The person's right to receive, or moneys received during 13533
the preceding twelve calendar months from, any of the following: 13534

(a) An award of reparations under sections 2743.51 to 2743.72 13535
of the Revised Code, to the extent exempted by division (D) of 13536
section 2743.66 of the Revised Code; 13537

(b) A payment on account of the wrongful death of an 13538
individual of whom the person was a dependent on the date of the 13539
individual's death, to the extent reasonably necessary for the 13540
support of the person and any of the person's dependents; 13541

(c) Except in cases in which the person who receives the 13542
payment is an inmate, as defined in section 2969.21 of the Revised 13543
Code, and in which the payment resulted from a civil action or 13544
appeal against a government entity or employee, as defined in 13545
section 2969.21 of the Revised Code, a payment, not to exceed five 13546
thousand dollars, on account of personal bodily injury, not 13547

including pain and suffering or compensation for actual pecuniary 13548
loss, of the person or an individual for whom the person is a 13549
dependent; 13550

(d) A payment in compensation for loss of future earnings of 13551
the person or an individual of whom the person is or was a 13552
dependent, to the extent reasonably necessary for the support of 13553
the debtor and any of the debtor's dependents. 13554

(13) Except as provided in sections 3119.80, 3119.81, 13555
3121.02, 3121.03, and 3123.06 of the Revised Code, personal 13556
earnings of the person owed to the person for services in an 13557
amount equal to the greater of the following amounts: 13558

(a) If paid weekly, thirty times the current federal minimum 13559
hourly wage; if paid biweekly, sixty times the current federal 13560
minimum hourly wage; if paid semimonthly, sixty-five times the 13561
current federal minimum hourly wage; or if paid monthly, one 13562
hundred thirty times the current federal minimum hourly wage that 13563
is in effect at the time the earnings are payable, as prescribed 13564
by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 13565
U.S.C. 206(a)(1), as amended; 13566

(b) Seventy-five per cent of the disposable earnings owed to 13567
the person. 13568

(14) The person's right in specific partnership property, as 13569
exempted by division (B)(3) of section 1775.24 of the Revised 13570
Code; 13571

(15) A seal and official register of a notary public, as 13572
exempted by section 147.04 of the Revised Code; 13573

(16) The person's interest in a tuition credit or a payment 13574
under section 3334.09 of the Revised Code pursuant to a tuition 13575
credit contract, as exempted by section 3334.15 of the Revised 13576
Code; 13577

(17) Any other property that is specifically exempted from 13578
execution, attachment, garnishment, or sale by federal statutes 13579
other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 11 13580
U.S.C.A. 101, as amended; 13581

(18) The person's interest, not to exceed four hundred 13582
dollars, in any property, except that division (A)(18) of this 13583
section applies only in bankruptcy proceedings. 13584

(B) As used in this section: 13585

(1) "Disposable earnings" means net earnings after the 13586
garnishee has made deductions required by law, excluding the 13587
deductions ordered pursuant to section 3119.80, 3119.81, 3121.02, 13588
3121.03, or 3123.06 of the Revised Code. 13589

(2) "Insider" means: 13590

(a) If the person who claims an exemption is an individual, a 13591
relative of the individual, a relative of a general partner of the 13592
individual, a partnership in which the individual is a general 13593
partner, a general partner of the individual, or a corporation of 13594
which the individual is a director, officer, or in control; 13595

(b) If the person who claims an exemption is a corporation, a 13596
director or officer of the corporation; a person in control of the 13597
corporation; a partnership in which the corporation is a general 13598
partner; a general partner of the corporation; or a relative of a 13599
general partner, director, officer, or person in control of the 13600
corporation; 13601

(c) If the person who claims an exemption is a partnership, a 13602
general partner in the partnership; a general partner of the 13603
partnership; a person in control of the partnership; a partnership 13604
in which the partnership is a general partner; or a relative in, a 13605
general partner of, or a person in control of the partnership; 13606

(d) An entity or person to which or whom any of the following 13607

applies: 13608

(i) The entity directly or indirectly owns, controls, or 13609
holds with power to vote, twenty per cent or more of the 13610
outstanding voting securities of the person who claims an 13611
exemption, unless the entity holds the securities in a fiduciary 13612
or agency capacity without sole discretionary power to vote the 13613
securities or holds the securities solely to secure to debt and 13614
the entity has not in fact exercised the power to vote. 13615

(ii) The entity is a corporation, twenty per cent or more of 13616
whose outstanding voting securities are directly or indirectly 13617
owned, controlled, or held with power to vote, by the person who 13618
claims an exemption or by an entity to which division (B)(2)(d)(i) 13619
of this section applies. 13620

(iii) A person whose business is operated under a lease or 13621
operating agreement by the person who claims an exemption, or a 13622
person substantially all of whose business is operated under an 13623
operating agreement with the person who claims an exemption. 13624

(iv) The entity operates the business or all or substantially 13625
all of the property of the person who claims an exemption under a 13626
lease or operating agreement. 13627

(e) An insider, as otherwise defined in this section, of a 13628
person or entity to which division (B)(2)(d)(i), (ii), (iii), or 13629
(iv) of this section applies, as if the person or entity were a 13630
person who claims an exemption; 13631

(f) A managing agent of the person who claims an exemption. 13632

(3) "Participant account" has the same meaning as in section 13633
148.01 of the Revised Code. 13634

(4) "Government unit" has the same meaning as in section 13635
148.06 of the Revised Code. 13636

(C) For purposes of this section, "interest" shall be 13637

determined as follows: 13638

(1) In bankruptcy proceedings, as of the date a petition is 13639
filed with the bankruptcy court commencing a case under Title 11 13640
of the United States Code; 13641

(2) In all cases other than bankruptcy proceedings, as of the 13642
date of an appraisal, if necessary under section 2329.68 of the 13643
Revised Code, or the issuance of a writ of execution. 13644

An interest, as determined under division (C)(1) or (2) of 13645
this section, shall not include the amount of any lien otherwise 13646
valid pursuant to section 2329.661 of the Revised Code. 13647

Sec. 2505.13. If a supersedeas bond has been executed and 13648
filed and the surety is one other than a surety company, the clerk 13649
of the court with which the bond has been filed, upon request, 13650
shall issue a certificate that sets forth the fact that the bond 13651
has been filed and that states the style and number of the appeal, 13652
the amount of the bond, and the sureties on it. Such a certificate 13653
may be filed in the office of the county recorder of any county in 13654
which the sureties may own land, and, when filed, the bond shall 13655
be a lien upon the land of the sureties in such county. The lien 13656
shall be extinguished upon the satisfaction, reversal, or vacation 13657
of the final order, judgment, or decree involved, or by an order 13658
of the court that entered the final order, judgment, or decree, 13659
that releases the lien or releases certain land from the operation 13660
of the lien. 13661

The clerk, upon request, shall issue a notice of discharge of 13662
such a lien, which may be filed in the office of any recorder in 13663
whose office the certificate of lien was filed. Such notice shall 13664
state that the final order, judgment, or decree involved is 13665
satisfied, reversed, or vacated, or that an order has been entered 13666
that releases the lien or certain land from the operation of the 13667
lien. Such recorder shall properly keep and file such certificates 13668

and notices as are filed with ~~him~~ the recorder and shall index 13669
them in the book or record provided for in section 2937.27 of the 13670
Revised Code. 13671

The fee for issuing such a certificate or notice shall be as 13672
provided by law, and shall be taxed as part of the costs of the 13673
appeal. A county recorder shall receive a base fee of fifty cents 13674
for filing and indexing such a certificate, which fee shall cover 13675
the filing and the entering on the index of ~~such a~~ the notice and 13676
a housing trust fund fee of fifty cents pursuant to section 317.36 13677
of the Revised Code. 13678

Sec. 2715.041. (A) Upon the filing of a motion for an order 13679
of attachment pursuant to section 2715.03 of the Revised Code, the 13680
plaintiff shall file with the clerk of the court a praecipe 13681
instructing the clerk to issue to the defendant against whom the 13682
motion was filed a notice of the proceeding. Upon receipt of the 13683
praecipe, the clerk shall issue the notice which shall be in 13684
substantially the following form: 13685

"(Name and Address of Court) 13686

Case No..... 13687

(Case Caption) 13688

NOTICE 13689

You are hereby notified that (name and address of plaintiff), 13690
the plaintiff in this proceeding, has applied to this court for 13691
the attachment of property in your possession. The basis for this 13692
application is indicated in the documents that are enclosed with 13693
this notice. 13694

The law of Ohio and the United States provides that certain 13695
benefit payments cannot be taken from you to pay a debt. Typical 13696
among the benefits that cannot be attached or executed on by a 13697
creditor are: 13698

(1) Workers' compensation benefits;	13699
(2) Unemployment compensation payments;	13700
(3) Cash assistance payments under the Ohio works first program;	13701 13702
(4) Benefits and services under the prevention, retention, and contingency program;	13703 13704
(5) Disability <u>financial</u> assistance administered by the Ohio department of job and family services;	13705 13706
(6) Social security benefits;	13707
(7) Supplemental security income (S.S.I.);	13708
(8) Veteran's benefits;	13709
(9) Black lung benefits;	13710
(10) Certain pensions.	13711
Additionally, your wages never can be taken to pay a debt	13712
until a judgment has been obtained against you. There may be other	13713
benefits not included in this list that apply in your case.	13714
If you dispute the plaintiff's claim and believe that you are	13715
entitled to retain possession of the property because it is exempt	13716
or for any other reason, you may request a hearing before this	13717
court by disputing the claim in the request for hearing form	13718
appearing below, or in a substantially similar form, and	13719
delivering the request for the hearing to this court, at the	13720
office of the clerk of this court, not later than the end of the	13721
fifth business day after you receive this notice. You may state	13722
your reasons for disputing the claim in the space provided on the	13723
form, but you are not required to do so. If you do state your	13724
reasons for disputing the claim in the space provided on the form,	13725
you are not prohibited from stating any other reasons at the	13726
hearing, and if you do not state your reasons, it will not be held	13727

against you by the court and you can state your reasons at the hearing. 13728
13729

If you request a hearing, it will be conducted in 13730
..... courtroom, (address of court), at 13731
.....m. on, 13732

You may avoid having a hearing but retain possession of the 13733
property until the entry of final judgment in the action by filing 13734
with the court, at the office of the clerk of this court, not 13735
later than the end of the fifth business day after you receive 13736
this notice, a bond executed by an acceptable surety in the amount 13737
of \$..... 13738

If you do not request a hearing or file a bond on or before 13739
the end of the fifth business day after you receive this notice, 13740
the court, without further notice to you, may order a law 13741
enforcement officer or bailiff to take possession of the property. 13742
Notice of the dates, times, places, and purposes of any subsequent 13743
hearings and of the date, time, and place of the trial of the 13744
action will be sent to you. 13745

..... 13746

Clerk of Court 13747

Date:....." 13748

(B) Along with the notice required by division (A) of this 13749
section, the clerk of the court also shall deliver to the 13750
defendant, in accordance with division (C) of this section, a 13751
request for hearing form together with a postage-paid, 13752
self-addressed envelope or a request for hearing form on a 13753
postage-paid, self-addressed postcard. The request for hearing 13754
shall be in substantially the following form: 13755

"(Name and Address of Court) 13756

Case Number Date 13757

REQUEST FOR HEARING 13758

I dispute the claim for the attachment of property in the 13759
above case and request that a hearing in this matter be held at 13760
the time and place set forth in the notice that I previously 13761
received. 13762

I dispute the claim for the following reasons: 13763

..... 13764

(Optional) 13765

..... 13766

..... 13767

..... 13768

(Name of Defendant) 13769

..... 13770

(Signature) 13771

..... 13772

(Date) 13773

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A 13774
REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK 13775
OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, 13776
YOU WAIVE YOUR RIGHT TO A HEARING AT THIS TIME AND YOU MAY BE 13777
REQUIRED TO GIVE UP THE PROPERTY SOUGHT WITHOUT A HEARING." 13778

(C) The notice required by division (A) of this section shall 13779
be served on the defendant in duplicate not less than seven 13780
business days prior to the date on which the hearing is scheduled, 13781
together with a copy of the complaint and summons, if not 13782
previously served, and a copy of the motion for the attachment of 13783
property and the affidavit attached to the motion, in the same 13784
manner as provided in the Rules of Civil Procedure for the service 13785
of process. Service may be effected by publication as provided in 13786
the Rules of Civil Procedure except that the number of weeks for 13787
publication may be reduced by the court to the extent appropriate. 13788

Sec. 2715.045. (A) Upon the filing of a motion for attachment, a court may issue an order of attachment without issuing notice to the defendant against whom the motion was filed and without conducting a hearing if the court finds that there is probable cause to support the motion and that the plaintiff that filed the motion for attachment will suffer irreparable injury if the order is delayed until the defendant against whom the motion has been filed has been given the opportunity for a hearing. The court's findings shall be based upon the motion and affidavit filed pursuant to section 2715.03 of the Revised Code and any other relevant evidence that it may wish to consider.

(B) A finding by the court that the plaintiff will suffer irreparable injury may be made only if the court finds the existence of either of the following circumstances:

(1) There is present danger that the property will be immediately disposed of, concealed, or placed beyond the jurisdiction of the court.

(2) The value of the property will be impaired substantially if the issuance of an order of attachment is delayed.

(C)(1) Upon the issuance by a court of an order of attachment without notice and hearing pursuant to this section, the plaintiff shall file the order with the clerk of the court, together with a praecipe instructing the clerk to issue to the defendant against whom the order was issued a copy of the motion, affidavit, and order of attachment, and a notice that an order of attachment was issued and that the defendant has a right to a hearing on the matter. The clerk then immediately shall serve upon the defendant, in the manner provided by the Rules of Civil Procedure for service of process, a copy of the complaint and summons, if not previously served, a copy of the motion, affidavit, and order of attachment, and the following notice:

"(Name and Address of the Court)	13820
(Case Caption) Case No.	13821
NOTICE	13822
You are hereby notified that this court has issued an order	13823
in the above case in favor of (name and address of plaintiff), the	13824
plaintiff in this proceeding, directing that property now in your	13825
possession, be taken from you. This order was issued on the basis	13826
of the plaintiff's claim against you as indicated in the documents	13827
that are enclosed with this notice.	13828
The law of Ohio and the United States provides that certain	13829
benefit payments cannot be taken from you to pay a debt. Typical	13830
among the benefits that cannot be attached or executed on by a	13831
creditor are:	13832
(1) Workers' compensation benefits;	13833
(2) Unemployment compensation payments;	13834
(3) Cash assistance payments under the Ohio works first	13835
program;	13836
(4) Benefits and services under the prevention, retention,	13837
and contingency program;	13838
(5) Disability <u>financial</u> assistance administered by the Ohio	13839
department of job and family services;	13840
(6) Social security benefits;	13841
(7) Supplemental security income (S.S.I.);	13842
(8) Veteran's benefits;	13843
(9) Black lung benefits;	13844
(10) Certain pensions.	13845
Additionally, your wages never can be taken to pay a debt	13846
until a judgment has been obtained against you. There may be other	13847
benefits not included in this list that apply in your case.	13848

If you dispute the plaintiff's claim and believe that you are 13849
entitled to possession of the property because it is exempt or for 13850
any other reason, you may request a hearing before this court by 13851
disputing the claim in the request for hearing form, appearing 13852
below, or in a substantially similar form, and delivering the 13853
request for hearing to this court at the above address, at the 13854
office of the clerk of this court, no later than the end of the 13855
fifth business day after you receive this notice. You may state 13856
your reasons for disputing the claim in the space provided on the 13857
form; however, you are not required to do so. If you do state your 13858
reasons for disputing the claim, you are not prohibited from 13859
stating any other reasons at the hearing, and if you do not state 13860
your reasons, it will not be held against you by the court and you 13861
can state your reasons at the hearing. If you request a hearing, 13862
it will be held within three business days after delivery of your 13863
request for hearing and notice of the date, time, and place of the 13864
hearing will be sent to you. 13865

You may avoid a hearing but recover and retain possession of 13866
the property until the entry of final judgment in the action by 13867
filing with the court, at the office of the clerk of this court, 13868
not later than the end of the fifth business day after you receive 13869
this notice, a bond executed by an acceptable surety in the amount 13870
of \$..... 13871

If you do not request a hearing or file a bond before the end 13872
of the fifth business day after you receive this notice, 13873
possession of the property will be withheld from you during the 13874
pendency of the action. Notice of the dates, times, places, and 13875
purposes of any subsequent hearings and of the date, time, and 13876
place of the trial of the action will be sent to you. 13877

..... 13878
Clerk of the Court 13879
..... 13880

Date" 13881

(2) Along with the notice required by division (C)(1) of this 13882
section, the clerk of the court also shall deliver to the 13883
defendant a request for hearing form together with a postage-paid, 13884
self-addressed envelope or a request for hearing form on a 13885
postage-paid, self-addressed postcard. The request for hearing 13886
shall be in substantially the following form: 13887

"(Name and Address of Court) 13888

Case Number Date 13889

REQUEST FOR HEARING 13890

I dispute the claim for possession of property in the above 13891
case and request that a hearing in this matter be held within 13892
three business days after delivery of this request to the court. 13893

I dispute the claim for the following reasons: 13894

..... 13895

(Optional) 13896

..... 13897

..... 13898

..... 13899

(Name of Defendant) 13900

..... 13901

(Signature) 13902

..... 13903

(Date) 13904

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A 13905
REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK 13906
OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, 13907
YOU WAIVE YOUR RIGHT TO A HEARING AND POSSESSION OF THE PROPERTY 13908
WILL BE WITHHELD FROM YOU DURING THE PENDENCY OF THE ACTION." 13909

(D) The defendant may receive a hearing in accordance with 13910

section 2715.043 of the Revised Code by delivering a written 13911
request for hearing to the court within five business days after 13912
receipt of the notice provided pursuant to division (C) of this 13913
section. The request may set forth the defendant's reasons for 13914
disputing the plaintiff's claim for possession of property. 13915
However, neither the defendant's inclusion of nor failure to 13916
include such reasons upon the request constitutes a waiver of any 13917
defense of the defendant or affects the defendant's right to 13918
produce evidence at any hearing or at the trial of the action. If 13919
the request is made by the defendant, the court shall schedule a 13920
hearing within three business days after the request is made, send 13921
notice to the parties of the date, time, and place of the hearing, 13922
and hold the hearing accordingly. 13923

(E) If, after hearing, the court finds that there is not 13924
probable cause to support the motion, it shall order that the 13925
property be redelivered to the defendant without the condition of 13926
bond. 13927

Sec. 2716.13. (A) Upon the filing of a proceeding in 13928
garnishment of property, other than personal earnings, under 13929
section 2716.11 of the Revised Code, the court shall cause the 13930
matter to be set for hearing within twelve days after that filing. 13931

(B) Upon the scheduling of a hearing relative to a proceeding 13932
in garnishment of property, other than personal earnings, under 13933
division (A) of this section, the clerk of the court immediately 13934
shall issue to the garnishee three copies of the order of 13935
garnishment of property, other than personal earnings, and of a 13936
written notice that the garnishee answer as provided in section 13937
2716.21 of the Revised Code and the garnishee's fee required by 13938
section 2716.12 of the Revised Code. The copies of the order and 13939
of the notice shall be served upon the garnishee in the same 13940
manner as a summons is served. The copies of the order and of the 13941

notice shall not be served later than seven days prior to the date 13942
on which the hearing is scheduled. The order shall bind the 13943
property, other than personal earnings, of the judgment debtor in 13944
the possession of the garnishee at the time of service. 13945

The order of garnishment of property, other than personal 13946
earnings, and notice to answer shall be in substantially the 13947
following form: 13948

"ORDER AND NOTICE OF GARNISHMENT 13949
OF PROPERTY OTHER THAN PERSONAL EARNINGS 13950
AND ANSWER OF GARNISHEE 13951

Docket No. 13952
Case No. 13953
In the Court 13954
....., Ohio 13955

The State of Ohio 13956
County of, ss 13957
....., Judgment Creditor 13958
vs. 13959

....., Judgment Debtor 13960

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT 13961
To:, Garnishee 13962

The judgment creditor in the above case has filed an 13963
affidavit, satisfactory to the undersigned, in this Court stating 13964
that you have money, property, or credits, other than personal 13965
earnings, in your hands or under your control that belong to the 13966
judgment debtor, and that some of the money, property, or credits 13967
may not be exempt from garnishment under the laws of the State of 13968
Ohio or the laws of the United States. 13969

You are therefore ordered to complete the "ANSWER OF 13970
GARNISHEE" in section (B) of this form. Return one completed and 13971

signed copy of this form to the clerk of this court together with 13972
the amount determined in accordance with the "ANSWER OF GARNISHEE" 13973
by the following date on which a hearing is tentatively scheduled 13974
relative to this order of garnishment: Deliver one 13975
completed and signed copy of this form to the judgment debtor 13976
prior to that date. Keep the other completed and signed copy of 13977
this form for your files. 13978

The total probable amount now due on this judgment is 13979
\$..... The total probable amount now due includes the unpaid 13980
portion of the judgment in favor of the judgment creditor, which 13981
is \$.....; interest on that judgment and, if applicable, 13982
prejudgment interest relative to that judgment at the rate of 13983
.....% per annum payable until that judgment is satisfied in full; 13984
and court costs in the amount of \$..... 13985

You also are ordered to hold safely anything of value that 13986
belongs to the judgment debtor and that has to be paid to the 13987
court, as determined under the "ANSWER OF GARNISHEE" in section 13988
(B) of this form, but that is of such a nature that it cannot be 13989
so delivered, until further order of the court. 13990

Witness my hand and the seal of this court this 13991
day of, 13992

..... 13993

Judge 13994

SECTION B. ANSWER OF GARNISHEE 13995

Now comes the garnishee, who says: 13996

1. That the garnishee has money, property, or credits, other 13997
than personal earnings, of the judgment debtor under the 13998
garnishee's control and in the garnishee's possession. 13999

..... 14000

yes no if yes, amount 14001

2. That property is described as: 14002

3. If the answer to line 1 is "yes" and the amount is less than the probable amount now due on the judgment, as indicated in section (A) of this form, sign and return this form and pay the amount of line 1 to the clerk of this court.

4. If the answer to line 1 is "yes" and the amount is greater than that probable amount now due on the judgment, as indicated in section (A) of this form, sign and return this form and pay that probable amount now due to the clerk of this court.

5. If the answer to line 1 is "yes" but the money, property, or credits are of such a nature that they cannot be delivered to the clerk of the court, indicate that by placing an "X" in this space: Do not dispose of that money, property, or credits or give them to anyone else until further order of the court.

6. If the answer to line 1 is "no," sign and return this form to the clerk of this court.

I certify that the statements above are true.

.....

(Print Name of Garnishee)

.....

(Print Name and Title of

Person Who Completed Form)

Signed.....

(Signature of Person Completing Form)

Dated this day of,"

Section A of the form described in this division shall be completed before service. Section B of the form shall be completed by the garnishee, and the garnishee shall file one completed and signed copy of the form with the clerk of the court as the garnishee's answer. The garnishee may keep one completed and signed copy of the form and shall deliver the other completed and

signed copy of the form to the judgment debtor. 14033

If several affidavits seeking orders of garnishment of 14034
property, other than personal earnings, are filed against the same 14035
judgment debtor in accordance with section 2716.11 of the Revised 14036
Code, the court involved shall issue the requested orders in the 14037
same order in which the clerk received the associated affidavits. 14038

(C)(1) At the time of the filing of a proceeding in 14039
garnishment of property, other than personal earnings, under 14040
section 2716.11 of the Revised Code, the judgment creditor also 14041
shall file with the clerk of the court a praecipe instructing the 14042
clerk to issue to the judgment debtor a notice to the judgment 14043
debtor form and a request for hearing form. Upon receipt of the 14044
praecipe and the scheduling of a hearing relative to an action in 14045
garnishment of property, other than personal earnings, under 14046
division (A) of this section, the clerk of the court immediately 14047
shall serve upon the judgment debtor, in accordance with division 14048
(D) of this section, two copies of the notice to the judgment 14049
debtor form and of the request for hearing form. The copies of the 14050
notice to the judgment debtor form and of the request for hearing 14051
form shall not be served later than seven days prior to the date 14052
on which the hearing is scheduled. 14053

(a) The notice to the judgment debtor that must be served 14054
upon the judgment debtor shall be in substantially the following 14055
form: 14056

"(Name and Address of the Court) 14057

(Case Caption) Case No. 14058

NOTICE TO THE JUDGMENT DEBTOR 14059

You are hereby notified that this court has issued an order 14060
in the above case in favor of (name and address of judgment 14061
creditor), the judgment creditor in this proceeding, directing 14062
that some of your money, property, or credits, other than personal 14063

earnings, now in the possession of (name and address of 14064
garnishee), the garnishee in this proceeding, be used to satisfy 14065
your debt to the judgment creditor. This order was issued on the 14066
basis of the judgment creditor's judgment against you that was 14067
obtained in (name of court) in (case number) on (date). Upon your 14068
receipt of this notice, you are prohibited from removing or 14069
attempting to remove the money, property, or credits until 14070
expressly permitted by the court. Any violation of this 14071
prohibition subjects you to punishment for contempt of court. 14072

The law of Ohio and the United States provides that certain 14073
benefit payments cannot be taken from you to pay a debt. Typical 14074
among the benefits that cannot be attached or executed upon by a 14075
creditor are the following: 14076

(1) Workers' compensation benefits; 14077

(2) Unemployment compensation payments; 14078

(3) Cash assistance payments under the Ohio works first 14079
program; 14080

(4) Benefits and services under the prevention, retention, 14081
and contingency program; 14082

(5) Disability financial assistance administered by the Ohio 14083
department of job and family services; 14084

(6) Social security benefits; 14085

(7) Supplemental security income (S.S.I.); 14086

(8) Veteran's benefits; 14087

(9) Black lung benefits; 14088

(10) Certain pensions. 14089

There may be other benefits not included in the above list 14090
that apply in your case. 14091

If you dispute the judgment creditor's right to garnish your 14092

property and believe that the judgment creditor should not be 14093
given your money, property, or credits, other than personal 14094
earnings, now in the possession of the garnishee because they are 14095
exempt or if you feel that this order is improper for any other 14096
reason, you may request a hearing before this court by disputing 14097
the claim in the request for hearing form, appearing below, or in 14098
a substantially similar form, and delivering the request for 14099
hearing to this court at the above address, at the office of the 14100
clerk of this court no later than the end of the fifth business 14101
day after you receive this notice. You may state your reasons for 14102
disputing the judgment creditor's right to garnish your property 14103
in the space provided on the form; however, you are not required 14104
to do so. If you do state your reasons for disputing the judgment 14105
creditor's right, you are not prohibited from stating any other 14106
reason at the hearing. If you do not state your reasons, it will 14107
not be held against you by the court, and you can state your 14108
reasons at the hearing. NO OBJECTIONS TO THE JUDGMENT ITSELF WILL 14109
BE HEARD OR CONSIDERED AT THE HEARING. If you request a hearing, 14110
the hearing will be limited to a consideration of the amount of 14111
your money, property, or credits, other than personal earnings, in 14112
the possession or control of the garnishee, if any, that can be 14113
used to satisfy all or part of the judgment you owe to the 14114
judgment creditor. 14115

If you request a hearing by delivering your request for 14116
hearing no later than the end of the fifth business day after you 14117
receive this notice, it will be conducted in courtroom 14118
....., (address of court), at m. on, 14119
..... You may request the court to conduct the hearing before 14120
this date by indicating your request in the space provided on the 14121
form; the court then will send you notice of any change in the 14122
date, time, or place of the hearing. If you do not request a 14123
hearing by delivering your request for a hearing no later than the 14124
end of the fifth business day after you receive this notice, some 14125

of your money, property, or credits, other than personal earnings, 14126
will be paid to the judgment creditor. 14127

If you have any questions concerning this matter, you may 14128
contact the office of the clerk of this court. If you want legal 14129
representation, you should contact your lawyer immediately. If you 14130
need the name of a lawyer, contact the local bar association. 14131

..... 14132
Clerk of the Court 14133
..... 14134
Date" 14135

(b) The request for hearing form that must be served upon the 14136
judgment debtor shall have attached to it a postage-paid, 14137
self-addressed envelope or shall be on a postage-paid 14138
self-addressed postcard, and shall be in substantially the 14139
following form: 14140

"(Name and Address of Court) 14141

Case Number Date 14142

REQUEST FOR HEARING 14143

I dispute the judgment creditor's right to garnish my money, 14144
property, or credits, other than personal earnings, in the above 14145
case and request that a hearing in this matter be held 14146

..... 14147

(Insert "on" or "earlier than") 14148

the date and time set forth in the document entitled "NOTICE TO 14149
THE JUDGMENT DEBTOR" that I received with this request form. 14150

I dispute the judgment creditor's right to garnish my 14151
property for the following reasons: 14152

..... 14153

(Optional) 14154

..... 14155

.....	14156
I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL	14157
BE HEARD OR CONSIDERED AT THE HEARING.	14158
.....	14159
(Name of Judgment Debtor)	14160
.....	14161
(Signature)	14162
.....	14163
(Date)	14164
WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A	14165
REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK	14166
OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT,	14167
YOU WAIVE YOUR RIGHT TO A HEARING AND SOME OF YOUR MONEY,	14168
PROPERTY, OR CREDITS, OTHER THAN PERSONAL EARNINGS, NOW IN THE	14169
POSSESSION OF (GARNISHEE'S NAME) WILL BE PAID TO (JUDGMENT	14170
CREDITOR'S NAME) TO SATISFY SOME OF YOUR DEBT TO (JUDGMENT	14171
CREDITOR'S NAME)."	14172
(2) The judgment debtor may receive a hearing in accordance	14173
with this division by delivering a written request for hearing to	14174
the court within five business days after receipt of the notice	14175
provided pursuant to division (C)(1) of this section. The request	14176
may set forth the judgment debtor's reasons for disputing the	14177
judgment creditor's right to garnish the money, property, or	14178
credits, other than personal earnings; however, neither the	14179
judgment debtor's inclusion of nor failure to include those	14180
reasons upon the request constitutes a waiver of any defense of	14181
the judgment debtor or affects the judgment debtor's right to	14182
produce evidence at the hearing. If the request is made by the	14183
judgment debtor within the prescribed time, the hearing shall be	14184
limited to a consideration of the amount of money, property, or	14185
credits, other than personal earnings, of the judgment debtor in	14186
the hands of the garnishee, if any, that can be used to satisfy	14187

all or part of the debt owed by the judgment debtor to the 14188
judgment creditor. If a request for a hearing is not received by 14189
the court within the prescribed time, the hearing scheduled 14190
pursuant to division (A) of this section shall be canceled unless 14191
the court grants the judgment debtor a continuance in accordance 14192
with division (C)(3) of this section. 14193

(3) If the judgment debtor does not request a hearing in the 14194
action within the prescribed time pursuant to division (C)(2) of 14195
this section, the court nevertheless may grant a continuance of 14196
the scheduled hearing if the judgment debtor, prior to the time at 14197
which the hearing was scheduled, as indicated on the notice to the 14198
judgment debtor required by division (C)(1) of this section, 14199
establishes a reasonable justification for failure to request the 14200
hearing within the prescribed time. If the court grants a 14201
continuance of the hearing, it shall cause the matter to be set 14202
for hearing as soon as practicable thereafter. The continued 14203
hearing shall be conducted in accordance with division (C)(2) of 14204
this section. 14205

(4) The court may conduct the hearing on the matter prior to 14206
the time at which the hearing was scheduled, as indicated on the 14207
notice to the judgment debtor required by division (C)(1) of this 14208
section, upon the request of the judgment debtor. The parties 14209
shall be sent notice, by the clerk of the court, by regular mail, 14210
of any change in the date, time, or place of the hearing. 14211

(5) If the scheduled hearing is canceled and no continuance 14212
is granted, the court shall issue an order to the garnishee to pay 14213
all or some of the money, property, or credits, other than 14214
personal earnings, of the judgment debtor in the possession of the 14215
garnishee at the time of service of the notice and order into 14216
court if they have not already been paid to the court. This order 14217
shall be based on the answer of the garnishee filed pursuant to 14218
this section. If the scheduled hearing is conducted or if it is 14219

continued and conducted, the court shall determine at the hearing 14220
the amount of the money, property, or credits, other than personal 14221
earnings, of the judgment debtor in the possession of the 14222
garnishee at the time of service of the notice and order, if any, 14223
that can be used to satisfy all or part of the debt owed by the 14224
judgment debtor to the judgment creditor, and issue an order, 14225
accordingly, to the garnishee to pay that amount into court if it 14226
has not already been paid to the court. 14227

(D) The notice to the judgment debtor form and the request 14228
for hearing form described in division (C) of this section shall 14229
be sent by the clerk by ordinary or regular mail service unless 14230
the judgment creditor requests that service be made in accordance 14231
with the Rules of Civil Procedure, in which case the forms shall 14232
be served in accordance with the Rules of Civil Procedure. Any 14233
court of common pleas that issues an order of garnishment of 14234
property, other than personal earnings, under this section has 14235
jurisdiction to serve process pursuant to this section upon a 14236
garnishee who does not reside within the jurisdiction of the 14237
court. Any county court or municipal court that issues an order of 14238
garnishment of property, other than personal earnings, under this 14239
section has jurisdiction to serve process pursuant to this section 14240
upon a garnishee who does not reside within the jurisdiction of 14241
the court. 14242

Sec. 2743.02. (A)(1) The state hereby waives its immunity 14243
from liability and, subject to division (H) of this section, 14244
consents to be sued, and have its liability determined, in the 14245
court of claims created in this chapter in accordance with the 14246
same rules of law applicable to suits between private parties, 14247
except that the determination of liability is subject to the 14248
limitations set forth in this chapter and, in the case of state 14249
universities or colleges, in section 3345.40 of the Revised Code, 14250
and except as provided in division (A)(2) of this section. To the 14251

extent that the state has previously consented to be sued, this 14252
chapter has no applicability. 14253

Except in the case of a civil action filed by the state, 14254
filing a civil action in the court of claims results in a complete 14255
waiver of any cause of action, based on the same act or omission, 14256
which the filing party has against any officer or employee, as 14257
defined in section 109.36 of the Revised Code. The waiver shall be 14258
void if the court determines that the act or omission was 14259
manifestly outside the scope of the officer's or employee's office 14260
or employment or that the officer or employee acted with malicious 14261
purpose, in bad faith, or in a wanton or reckless manner. 14262

(2) If a claimant proves in the court of claims that an 14263
officer or employee, as defined in section 109.36 of the Revised 14264
Code, would have personal liability for ~~his~~ the officer's or 14265
employee's acts or omissions but for the fact that the officer or 14266
employee has personal immunity under section 9.86 of the Revised 14267
Code, the state shall be held liable in the court of claims in any 14268
action that is timely filed pursuant to section 2743.16 of the 14269
Revised Code and that is based upon the acts or omissions. 14270

(B) The state hereby waives the immunity from liability of 14271
all hospitals owned or operated by one or more political 14272
subdivisions and consents for them to be sued, and to have their 14273
liability determined, in the court of common pleas, in accordance 14274
with the same rules of law applicable to suits between private 14275
parties, subject to the limitations set forth in this chapter. 14276
This division is also applicable to hospitals owned or operated by 14277
political subdivisions which have been determined by the supreme 14278
court to be subject to suit prior to July 28, 1975. 14279

(C) Any hospital, as defined under section 2305.11 of the 14280
Revised Code, may purchase liability insurance covering its 14281
operations and activities and its agents, employees, nurses, 14282
interns, residents, staff, and members of the governing board and 14283

committees, and, whether or not such insurance is purchased, may, 14284
to such extent as its governing board considers appropriate, 14285
indemnify or agree to indemnify and hold harmless any such person 14286
against expense, including attorney's fees, damage, loss, or other 14287
liability arising out of, or claimed to have arisen out of, the 14288
death, disease, or injury of any person as a result of the 14289
negligence, malpractice, or other action or inaction of the 14290
indemnified person while acting within the scope of ~~his~~ the 14291
indemnified person's duties or engaged in activities at the 14292
request or direction, or for the benefit, of the hospital. Any 14293
hospital electing to indemnify such persons, or to agree to so 14294
indemnify, shall reserve such funds as are necessary, in the 14295
exercise of sound and prudent actuarial judgment, to cover the 14296
potential expense, fees, damage, loss, or other liability. The 14297
superintendent of insurance may recommend, or, if such hospital 14298
requests ~~him~~ the superintendent to do so, the superintendent shall 14299
recommend, a specific amount for any period that, in ~~his~~ the 14300
superintendent's opinion, represents such a judgment. This 14301
authority is in addition to any authorization otherwise provided 14302
or permitted by law. 14303

(D) Recoveries against the state shall be reduced by the 14304
aggregate of insurance proceeds, disability award, or other 14305
collateral recovery received by the claimant. This division does 14306
not apply to civil actions in the court of claims against a state 14307
university or college under the circumstances described in section 14308
3345.40 of the Revised Code. The collateral benefits provisions of 14309
division (B)(2) of that section apply under those circumstances. 14310

(E) The only defendant in original actions in the court of 14311
claims is the state. The state may file a third-party complaint or 14312
counterclaim in any civil action, except a civil action for two 14313
thousand five hundred dollars or less, that is filed in the court 14314
of claims. 14315

(F) A civil action against an officer or employee, as defined 14316
in section 109.36 of the Revised Code, that alleges that the 14317
officer's or employee's conduct was manifestly outside the scope 14318
of ~~his~~ the officer's or employee's employment or official 14319
responsibilities, or that the officer or employee acted with 14320
malicious purpose, in bad faith, or in a wanton or reckless manner 14321
shall first be filed against the state in the court of claims, 14322
which has exclusive, original jurisdiction to determine, 14323
initially, whether the officer or employee is entitled to personal 14324
immunity under section 9.86 of the Revised Code and whether the 14325
courts of common pleas have jurisdiction over the civil action. 14326

The filing of a claim against an officer or employee under 14327
this division tolls the running of the applicable statute of 14328
limitations until the court of claims determines whether the 14329
officer or employee is entitled to personal immunity under section 14330
9.86 of the Revised Code. 14331

(G) Whenever a claim lies against an officer or employee who 14332
is a member of the Ohio national guard, and the officer or 14333
employee was, at the time of the act or omission complained of, 14334
subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 14335
U.S.C. 2671, et seq., then the Federal Tort Claims Act is the 14336
exclusive remedy of the claimant and the state has no liability 14337
under this section. 14338

(H) If an inmate of a state correctional institution has a 14339
claim against the state for the loss of or damage to property and 14340
the amount claimed does not exceed three hundred dollars, before 14341
commencing an action against the state in the court of claims, the 14342
inmate shall file a claim for the loss or damage under the rules 14343
adopted by the director of rehabilitation and correction pursuant 14344
to this division. The inmate shall file the claim within the time 14345
allowed for commencement of a civil action under section 2743.16 14346
of the Revised Code. If the state admits or compromises the claim, 14347

the director shall make payment from a fund designated by the 14348
director for that purpose. If the state denies the claim or does 14349
not compromise the claim at least sixty days prior to expiration 14350
of the time allowed for commencement of a civil action based upon 14351
the loss or damage under section 2743.16 of the Revised Code, the 14352
inmate may commence an action in the court of claims under this 14353
chapter to recover damages for the loss or damage. 14354

The director of rehabilitation and correction shall adopt 14355
rules pursuant to Chapter 119. of the Revised Code to implement 14356
this division. 14357

Sec. 2915.01. As used in this chapter: 14358

(A) "Bookmaking" means the business of receiving or paying 14359
off bets. 14360

(B) "Bet" means the hazarding of anything of value upon the 14361
result of an event, undertaking, or contingency, but does not 14362
include a bona fide business risk. 14363

(C) "Scheme of chance" means a slot machine, lottery, numbers 14364
game, pool, or other scheme in which a participant gives a 14365
valuable consideration for a chance to win a prize, but does not 14366
include bingo. 14367

(D) "Game of chance" means poker, craps, roulette, or other 14368
game in which a player gives anything of value in the hope of 14369
gain, the outcome of which is determined largely by chance, but 14370
does not include bingo. 14371

(E) "Game of chance conducted for profit" means any game of 14372
chance designed to produce income for the person who conducts or 14373
operates the game of chance, but does not include bingo. 14374

(F) "Gambling device" means any of the following: 14375

(1) A book, totalizer, or other equipment for recording bets; 14376

(2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;	14377 14378
(3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;	14379 14380 14381
(4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes;	14382 14383
(5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter.	14384 14385
(G) "Gambling offense" means any of the following:	14386
(1) A violation of section 2915.02, 2915.03, 2915.04, 2915.05, 2915.07, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.10, or 2915.11 of the Revised Code;	14387 14388 14389
(2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in division (G)(1) of this section or a violation of section 2915.06 of the Revised Code as it existed prior to July 1, 1996;	14390 14391 14392 14393 14394
(3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element;	14395 14396 14397
(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (G)(1), (2), or (3) of this section.	14398 14399 14400
(H) Except as otherwise provided in this chapter, "charitable organization" means any tax exempt religious, educational, veteran's, fraternal, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, youth athletic, amateur athletic, or youth athletic park organization. An organization is tax exempt if the organization is, and has	14401 14402 14403 14404 14405 14406

received from the internal revenue service a determination letter 14407
that currently is in effect stating that the organization is, 14408
exempt from federal income taxation under subsection 501(a) and 14409
described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 14410
501(c)(10), or 501(c)(19) of the Internal Revenue Code. To qualify 14411
as a charitable organization, an organization, except a volunteer 14412
rescue service or volunteer fire fighter's organization, shall 14413
have been in continuous existence as such in this state for a 14414
period of two years immediately preceding either the making of an 14415
application for a bingo license under section 2915.08 of the 14416
Revised Code or the conducting of any scheme of chance or game of 14417
chance as provided in division (C) of section 2915.02 of the 14418
Revised Code. A charitable organization that is exempt from 14419
federal income taxation under subsection 501(a) and described in 14420
subsection 501(c)(3) of the Internal Revenue Code and that is 14421
created by a veteran's organization or a fraternal organization 14422
does not have to have been in continuous existence as such in this 14423
state for a period of two years immediately preceding either the 14424
making of an application for a bingo license under section 2915.08 14425
of the Revised Code or the conducting of any scheme of chance or 14426
game of chance as provided in division (D) of section 2915.02 of 14427
the Revised Code. 14428

(I) "Religious organization" means any church, body of 14429
communicants, or group that is not organized or operated for 14430
profit and that gathers in common membership for regular worship 14431
and religious observances. 14432

(J) "Educational organization" means any organization within 14433
this state that is not organized for profit, the exclusive purpose 14434
of which is to educate and develop the capabilities of individuals 14435
through instruction, and that operates or contributes to the 14436
support of a school, academy, college, or university. 14437

(K) "Veteran's organization" means any individual post of a 14438

national veteran's association or an auxiliary unit of any 14439
individual post of a national veteran's association, which post or 14440
auxiliary unit has been incorporated as a nonprofit corporation 14441
for at least two years and has received a letter from the state 14442
headquarters of the national veteran's association indicating that 14443
the individual post or auxiliary unit is in good standing with the 14444
national veteran's association. As used in this division, 14445
"national veteran's association" means any veteran's association 14446
that has been in continuous existence as such for a period of at 14447
least five years and either is incorporated by an act of the 14448
United States congress or has a national dues-paying membership of 14449
at least five thousand persons. 14450

(L) "Volunteer firefighter's organization" means any 14451
organization of volunteer firefighters, as defined in section 14452
146.01 of the Revised Code, that is organized and operated 14453
exclusively to provide financial support for a volunteer fire 14454
department or a volunteer fire company and that is recognized or 14455
ratified by a county, municipal corporation, or township. 14456

(M) "Fraternal organization" means any society, order, or 14457
association within this state, except a college or high school 14458
fraternity, that is not organized for profit, that is a branch, 14459
lodge, or chapter of a national or state organization, that exists 14460
exclusively for the common business or sodality of its members, 14461
and that has been in continuous existence in this state for a 14462
period of five years. 14463

(N) "Volunteer rescue service organization" means any 14464
organization of volunteers organized to function as an emergency 14465
medical service organization, as defined in section 4765.01 of the 14466
Revised Code. 14467

(O) "Service organization" means any organization, not 14468
organized for profit, that is organized and operated exclusively 14469
to provide, or to contribute to the support of organizations or 14470

institutions organized and operated exclusively to provide, 14471
medical and therapeutic services for persons who are crippled, 14472
born with birth defects, or have any other mental or physical 14473
defect or those organized and operated exclusively to protect, or 14474
to contribute to the support of organizations or institutions 14475
organized and operated exclusively to protect, animals from 14476
inhumane treatment. 14477

(P) "Nonprofit medical organization" means any organization 14478
that has been incorporated as a nonprofit corporation for at least 14479
five years and that has continuously operated and will be operated 14480
exclusively to provide, or to contribute to the support of 14481
organizations or institutions organized and operated exclusively 14482
to provide, hospital, medical, research, or therapeutic services 14483
for the public. 14484

(Q) "Senior citizen's organization" means any private 14485
organization, not organized for profit, that is organized and 14486
operated exclusively to provide recreational or social services 14487
for persons who are fifty-five years of age or older and that is 14488
described and qualified under subsection 501(c)(3) of the Internal 14489
Revenue Code. 14490

(R) "Charitable bingo game" means any bingo game described in 14491
division (S)(1) or (2) of this section that is conducted by a 14492
charitable organization that has obtained a license pursuant to 14493
section 2915.08 of the Revised Code and the proceeds of which are 14494
used for a charitable purpose. 14495

(S) "Bingo" means either of the following: 14496

(1) A game with all of the following characteristics: 14497

(a) The participants use bingo cards or sheets, including 14498
paper formats and electronic representation or image formats, that 14499
are divided into twenty-five spaces arranged in five horizontal 14500
and five vertical rows of spaces, with each space, except the 14501

central space, being designated by a combination of a letter and a number and with the central space being designated as a free space.

(b) The participants cover the spaces on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator.

(c) A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains seventy-five objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the seventy-five possible combinations of a letter and a number that can appear on the bingo cards or sheets.

(d) The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers as described in division (S)(1)(c) of this section, that a predetermined and preannounced pattern of spaces has been covered on a bingo card or sheet being used by the participant.

(2) Instant bingo, punch boards, and raffles.

(T) "Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance.

(U) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of bingo, including, but not limited to, collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and

numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages.

(V) "Participant" means any person who plays bingo.

(W) "Bingo session" means a period that includes both of the following:

(1) Not to exceed five continuous hours for the conduct of one or more games described in division (S)(1) of this section, instant bingo, and seal cards;

(2) A period for the conduct of instant bingo and seal cards for not more than two hours before and not more than two hours after the period described in division (W)(1) of this section.

(X) "Gross receipts" means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:

(1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to conducting bingo.

(2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.

(3) The food and beverages are sold at customary and reasonable prices.

(Y) "Security personnel" includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or member of an organized police department of a municipal corporation or has successfully completed a peace officer's training course pursuant to sections 109.71 to 109.79 of the Revised Code and who is hired to provide security for the premises on which bingo is conducted.

(Z) "Charitable purpose" means that the net profit of bingo, other than instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:

(1) Any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

(2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least seventy-five per cent of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in division (B)~~(12)~~(11) of section 5739.02 of the Revised Code, is used for awarding scholarships to or for attendance at an institution mentioned in division (B)~~(12)~~(11) of section 5739.02 of the Revised Code, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to

schools, youth groups, or other bona fide nonprofit organizations, 14595
promotion of patriotism, or disaster relief; 14596

(3) A fraternal organization that has been in continuous 14597
existence in this state for fifteen years and that uses the net 14598
profit exclusively for religious, charitable, scientific, 14599
literary, or educational purposes, or for the prevention of 14600
cruelty to children or animals, if contributions for such use 14601
would qualify as a deductible charitable contribution under 14602
subsection 170 of the Internal Revenue Code; 14603

(4) A volunteer firefighter's organization that uses the net 14604
profit for the purposes set forth in division (L) of this section. 14605

(AA) "Internal Revenue Code" means the "Internal Revenue Code 14606
of 1986," 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter 14607
amended. 14608

(BB) "Youth athletic organization" means any organization, 14609
not organized for profit, that is organized and operated 14610
exclusively to provide financial support to, or to operate, 14611
athletic activities for persons who are twenty-one years of age or 14612
younger by means of sponsoring, organizing, operating, or 14613
contributing to the support of an athletic team, club, league, or 14614
association. 14615

(CC) "Youth athletic park organization" means any 14616
organization, not organized for profit, that satisfies both of the 14617
following: 14618

(1) It owns, operates, and maintains playing fields that 14619
satisfy both of the following: 14620

(a) The playing fields are used at least one hundred days per 14621
year for athletic activities by one or more organizations, not 14622
organized for profit, each of which is organized and operated 14623
exclusively to provide financial support to, or to operate, 14624
athletic activities for persons who are eighteen years of age or 14625

younger by means of sponsoring, organizing, operating, or 14626
contributing to the support of an athletic team, club, league, or 14627
association. 14628

(b) The playing fields are not used for any profit-making 14629
activity at any time during the year. 14630

(2) It uses the proceeds of bingo it conducts exclusively for 14631
the operation, maintenance, and improvement of its playing fields 14632
of the type described in division (CC)(1) of this section. 14633

(DD) "Amateur athletic organization" means any organization, 14634
not organized for profit, that is organized and operated 14635
exclusively to provide financial support to, or to operate, 14636
athletic activities for persons who are training for amateur 14637
athletic competition that is sanctioned by a national governing 14638
body as defined in the "Amateur Sports Act of 1978," 90 Stat. 14639
3045, 36 U.S.C.A. 373. 14640

(EE) "Bingo supplies" means bingo cards or sheets; instant 14641
bingo tickets or cards; electronic bingo aids; raffle tickets; 14642
punch boards; seal cards; instant bingo ticket dispensers; and 14643
devices for selecting or displaying the combination of bingo 14644
letters and numbers or raffle tickets. Items that are "bingo 14645
supplies" are not gambling devices if sold or otherwise provided, 14646
and used, in accordance with this chapter. For purposes of this 14647
chapter, "bingo supplies" are not to be considered equipment used 14648
to conduct a bingo game. 14649

(FF) "Instant bingo" means a form of bingo that uses folded 14650
or banded tickets or paper cards with perforated break-open tabs, 14651
a face of which is covered or otherwise hidden from view to 14652
conceal a number, letter, or symbol, or set of numbers, letters, 14653
or symbols, some of which have been designated in advance as prize 14654
winners. "Instant bingo" includes seal cards. "Instant bingo" does 14655
not include any device that is activated by the insertion of a 14656

coin, currency, token, or an equivalent, and that contains as one 14657
of its components a video display monitor that is capable of 14658
displaying numbers, letters, symbols, or characters in winning or 14659
losing combinations. 14660

(GG) "Seal card" means a form of instant bingo that uses 14661
instant bingo tickets in conjunction with a board or placard that 14662
contains one or more seals that, when removed or opened, reveal 14663
predesignated winning numbers, letters, or symbols. 14664

(HH) "Raffle" means a form of bingo in which the one or more 14665
prizes are won by one or more persons who have purchased a raffle 14666
ticket. The one or more winners of the raffle are determined by 14667
drawing a ticket stub or other detachable section from a 14668
receptacle containing ticket stubs or detachable sections 14669
corresponding to all tickets sold for the raffle. 14670

(II) "Punch board" means a board containing a number of holes 14671
or receptacles of uniform size in which are placed, mechanically 14672
and randomly, serially numbered slips of paper that may be punched 14673
or drawn from the hole or receptacle when used in conjunction with 14674
instant bingo. A player may punch or draw the numbered slips of 14675
paper from the holes or receptacles and obtain the prize 14676
established for the game if the number drawn corresponds to a 14677
winning number or, if the punch board includes the use of a seal 14678
card, a potential winning number. 14679

(JJ) "Gross profit" means gross receipts minus the amount 14680
actually expended for the payment of prize awards. 14681

(KK) "Net profit" means gross profit minus expenses. 14682

(LL) "Expenses" means the reasonable amount of gross profit 14683
actually expended for all of the following: 14684

(1) The purchase or lease of bingo supplies; 14685

(2) The annual license fee required under section 2915.08 of 14686

the Revised Code;	14687
(3) Bank fees and service charges for a bingo session or game account described in section 2915.10 of the Revised Code;	14688 14689
(4) Audits and accounting services;	14690
(5) Safes;	14691
(6) Cash registers;	14692
(7) Hiring security personnel;	14693
(8) Advertising bingo;	14694
(9) Renting premises in which to conduct bingo;	14695
(10) Tables and chairs;	14696
(11) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the attorney general under division (B)(1) of section 2915.08 of the Revised Code.	14697 14698 14699 14700
(MM) "Person" has the same meaning as in section 1.59 of the Revised Code and includes any firm or any other legal entity, however organized.	14701 14702 14703
(NN) "Revoke" means to void permanently all rights and privileges of the holder of a license issued under section 2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable gaming license issued by another jurisdiction.	14704 14705 14706 14707
(OO) "Suspend" means to interrupt temporarily all rights and privileges of the holder of a license issued under section 2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable gaming license issued by another jurisdiction.	14708 14709 14710 14711
(PP) "Distributor" means any person who purchases or obtains bingo supplies and who sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state.	14712 14713 14714 14715

(QQ) "Manufacturer" means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.

(RR) "Gross annual revenues" means the annual gross receipts derived from the conduct of bingo described in division (S)(1) of this section plus the annual net profit derived from the conduct of bingo described in division (S)(2) of this section.

(SS) "Instant bingo ticket dispenser" means a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:

(1) It is activated upon the insertion of United States currency.

(2) It performs no gaming functions.

(3) It does not contain a video display monitor or generate noise.

(4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations.

(5) It does not simulate or display rolling or spinning reels.

(6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or nonwinning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.

(7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.

(8) It is not part of an electronic network and is not interactive.

(TT)(1) "Electronic bingo aid" means an electronic device 14745
used by a participant to monitor bingo cards or sheets purchased 14746
at the time and place of a bingo session and that does all of the 14747
following: 14748

(a) It provides a means for a participant to input numbers 14749
and letters announced by a bingo caller. 14750

(b) It compares the numbers and letters entered by the 14751
participant to the bingo faces previously stored in the memory of 14752
the device. 14753

(c) It identifies a winning bingo pattern. 14754

(2) "Electronic bingo aid" does not include any device into 14755
which a coin, currency, token, or an equivalent is inserted to 14756
activate play. 14757

(UU) "Deal of instant bingo tickets" means a single game of 14758
instant bingo tickets all with the same serial number. 14759

(VV) "Slot_ machine means either of the following: 14760

(1) Any mechanical, electronic, video, or digital device that 14761
is capable of accepting anything of value, directly or indirectly, 14762
from or on behalf of a player who gives the thing of value in the 14763
hope of gain, the outcome of which is determined largely or wholly 14764
by chance; 14765

(2) Any mechanical, electronic, video, or digital device that 14766
is capable of accepting anything of value, directly or indirectly, 14767
from or on behalf of a player to conduct or dispense bingo or a 14768
scheme or game of chance. 14769

(WW) "Net profit from the proceeds of the sale of instant 14770
bingo" means gross profit minus the ordinary, necessary, and 14771
reasonable expense expended for the purchase of instant bingo 14772
supplies. 14773

(XX) "Charitable instant bingo organization" means an 14774

organization that is exempt from federal income taxation under 14775
subsection 501(a) and described in subsection 501(c)(3) of the 14776
Internal Revenue Code and is a charitable organization as defined 14777
in this section. A "charitable instant bingo organization" does 14778
not include a charitable organization that is exempt from federal 14779
income taxation under subsection 501(a) and described in 14780
subsection 501(c)(3) of the Internal Revenue Code and that is 14781
created by a veteran's organization or a fraternal organization in 14782
regards to bingo conducted or assisted by a veteran's organization 14783
or a fraternal organization pursuant to section 2915.13 of the 14784
Revised Code. 14785

Sec. 2921.13. (A) No person shall knowingly make a false 14786
statement, or knowingly swear or affirm the truth of a false 14787
statement previously made, when any of the following applies: 14788

(1) The statement is made in any official proceeding. 14789

(2) The statement is made with purpose to incriminate 14790
another. 14791

(3) The statement is made with purpose to mislead a public 14792
official in performing the public official's official function. 14793

(4) The statement is made with purpose to secure the payment 14794
of unemployment compensation; Ohio works first; prevention, 14795
retention, and contingency benefits and services; disability 14796
financial assistance; retirement benefits; economic development 14797
assistance, as defined in section 9.66 of the Revised Code; or 14798
other benefits administered by a governmental agency or paid out 14799
of a public treasury. 14800

(5) The statement is made with purpose to secure the issuance 14801
by a governmental agency of a license, permit, authorization, 14802
certificate, registration, release, or provider agreement. 14803

(6) The statement is sworn or affirmed before a notary public 14804

or another person empowered to administer oaths. 14805

(7) The statement is in writing on or in connection with a 14806
report or return that is required or authorized by law. 14807

(8) The statement is in writing and is made with purpose to 14808
induce another to extend credit to or employ the offender, to 14809
confer any degree, diploma, certificate of attainment, award of 14810
excellence, or honor on the offender, or to extend to or bestow 14811
upon the offender any other valuable benefit or distinction, when 14812
the person to whom the statement is directed relies upon it to 14813
that person's detriment. 14814

(9) The statement is made with purpose to commit or 14815
facilitate the commission of a theft offense. 14816

(10) The statement is knowingly made to a probate court in 14817
connection with any action, proceeding, or other matter within its 14818
jurisdiction, either orally or in a written document, including, 14819
but not limited to, an application, petition, complaint, or other 14820
pleading, or an inventory, account, or report. 14821

(11) The statement is made on an account, form, record, 14822
stamp, label, or other writing that is required by law. 14823

(12) The statement is made in connection with the purchase of 14824
a firearm, as defined in section 2923.11 of the Revised Code, and 14825
in conjunction with the furnishing to the seller of the firearm of 14826
a fictitious or altered driver's or commercial driver's license or 14827
permit, a fictitious or altered identification card, or any other 14828
document that contains false information about the purchaser's 14829
identity. 14830

(13) The statement is made in a document or instrument of 14831
writing that purports to be a judgment, lien, or claim of 14832
indebtedness and is filed or recorded with the secretary of state, 14833
a county recorder, or the clerk of a court of record. 14834

(B) No person, in connection with the purchase of a firearm, 14835
as defined in section 2923.11 of the Revised Code, shall knowingly 14836
furnish to the seller of the firearm a fictitious or altered 14837
driver's or commercial driver's license or permit, a fictitious or 14838
altered identification card, or any other document that contains 14839
false information about the purchaser's identity. 14840

(C) It is no defense to a charge under division (A)(4) of 14841
this section that the oath or affirmation was administered or 14842
taken in an irregular manner. 14843

(D) If contradictory statements relating to the same fact are 14844
made by the offender within the period of the statute of 14845
limitations for falsification, it is not necessary for the 14846
prosecution to prove which statement was false but only that one 14847
or the other was false. 14848

(E)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 14849
(6), (7), (8), (10), (11), or (13) of this section is guilty of 14850
falsification, a misdemeanor of the first degree. 14851

(2) Whoever violates division (A)(9) of this section is 14852
guilty of falsification in a theft offense. Except as otherwise 14853
provided in this division, falsification in a theft offense is a 14854
misdemeanor of the first degree. If the value of the property or 14855
services stolen is five hundred dollars or more and is less than 14856
five thousand dollars, falsification in a theft offense is a 14857
felony of the fifth degree. If the value of the property or 14858
services stolen is five thousand dollars or more and is less than 14859
one hundred thousand dollars, falsification in a theft offense is 14860
a felony of the fourth degree. If the value of the property or 14861
services stolen is one hundred thousand dollars or more, 14862
falsification in a theft offense is a felony of the third degree. 14863

(3) Whoever violates division (A)(12) or (B) of this section 14864
is guilty of falsification to purchase a firearm, a felony of the 14865

fifth degree. 14866

(F) A person who violates this section is liable in a civil 14867
action to any person harmed by the violation for injury, death, or 14868
loss to person or property incurred as a result of the commission 14869
of the offense and for reasonable attorney's fees, court costs, 14870
and other expenses incurred as a result of prosecuting the civil 14871
action commenced under this division. A civil action under this 14872
division is not the exclusive remedy of a person who incurs 14873
injury, death, or loss to person or property as a result of a 14874
violation of this section. 14875

Sec. 2925.44. (A) If property is seized pursuant to section 14876
2925.42 or 2925.43 of the Revised Code, it is deemed to be in the 14877
custody of the head of the law enforcement agency that seized it, 14878
and the head of that agency may do any of the following with 14879
respect to that property prior to its disposition in accordance 14880
with division (A)(4) or (B) of this section: 14881

(1) Place the property under seal; 14882

(2) Remove the property to a place that the head of that 14883
agency designates; 14884

(3) Request the issuance of a court order that requires any 14885
other appropriate municipal corporation, county, township, park 14886
district created pursuant to section 511.18 or 1545.01 of the 14887
Revised Code, or state law enforcement officer or other officer to 14888
take custody of the property and, if practicable, remove it to an 14889
appropriate location for eventual disposition in accordance with 14890
division (B) of this section; 14891

(4)(a) Seek forfeiture of the property pursuant to federal 14892
law. If the head of that agency seeks its forfeiture pursuant to 14893
federal law, the law enforcement agency shall deposit, use, and 14894
account for proceeds from a sale of the property upon its 14895

forfeiture, proceeds from another disposition of the property upon 14896
its forfeiture, or forfeited moneys it receives, in accordance 14897
with the applicable federal law and otherwise shall comply with 14898
that law. 14899

(b) If the state highway patrol seized the property and if 14900
the superintendent of the state highway patrol seeks its 14901
forfeiture pursuant to federal law, the appropriate governmental 14902
officials shall deposit into the state highway patrol contraband, 14903
forfeiture, and other fund all interest or other earnings derived 14904
from the investment of the proceeds from a sale of the property 14905
upon its forfeiture, the proceeds from another disposition of the 14906
property upon its forfeiture, or the forfeited moneys. The state 14907
highway patrol shall use and account for that interest or other 14908
earnings in accordance with the applicable federal law. 14909

(c) If the investigative unit of the department of public 14910
safety seized the property and if the director of public safety 14911
seeks its forfeiture pursuant to federal law, the appropriate 14912
governmental officials shall deposit into the department of public 14913
safety investigative unit contraband, forfeiture, and other fund 14914
all interest or other earnings derived from the investment of the 14915
proceeds from a sale of the property upon its forfeiture, the 14916
proceeds from another disposition of the property upon its 14917
forfeiture, or the forfeited moneys. The department shall use and 14918
account for that interest or other earnings in accordance with the 14919
applicable federal law. 14920

(d) If the enforcement division of the department of taxation 14921
seized the property and if the tax commissioner seeks its 14922
forfeiture pursuant to federal law, the appropriate governmental 14923
officials shall deposit into the department of taxation 14924
enforcement fund all interest or other earnings derived from the 14925
investment of the proceeds from a sale of the property upon its 14926
forfeiture, the proceeds from another disposition of the property 14927

upon its forfeiture, or the forfeited moneys. The department shall 14928
use and account for that interest or other earnings in accordance 14929
with the applicable federal law. 14930

(e) Division (B) of this section and divisions (D)(1) to (3) 14931
of section 2933.43 of the Revised Code do not apply to proceeds or 14932
forfeited moneys received pursuant to federal law or to the 14933
interest or other earnings that are derived from the investment of 14934
proceeds or forfeited moneys received pursuant to federal law and 14935
that are described in division (A)(4)(b) of this section. 14936

(B) In addition to complying with any requirements imposed by 14937
a court pursuant to section 2925.42 or 2925.43 of the Revised 14938
Code, and the requirements imposed by those sections, in relation 14939
to the disposition of property forfeited to the state under either 14940
of those sections, the prosecuting attorney who is responsible for 14941
its disposition shall dispose of the property as follows: 14942

(1) Any vehicle, as defined in section 4501.01 of the Revised 14943
Code, that was used in a felony drug abuse offense or in an act 14944
that, if committed by an adult, would be a felony drug abuse 14945
offense shall be given to the law enforcement agency of the 14946
municipal corporation or county in which the offense occurred if 14947
that agency desires to have the vehicle, except that, if the 14948
offense occurred in a township or in a park district created 14949
pursuant to section 511.18 or 1545.01 of the Revised Code and a 14950
law enforcement officer employed by the township or the park 14951
district was involved in the seizure of the vehicle, the vehicle 14952
may be given to the law enforcement agency of that township or 14953
park district if that agency desires to have the vehicle, and 14954
except that, if the state highway patrol made the seizure of the 14955
vehicle, the vehicle may be given to the state highway patrol if 14956
it desires to have the vehicle. 14957

(2) Any drug paraphernalia that was used, possessed, sold, or 14958
manufactured in a violation of section 2925.14 of the Revised Code 14959

that would be a felony drug abuse offense or in a violation of 14960
that section committed by a juvenile that, if committed by an 14961
adult, would be a felony drug abuse offense, may be given to the 14962
law enforcement agency of the municipal corporation or county in 14963
which the offense occurred if that agency desires to have and can 14964
use the drug paraphernalia, except that, if the offense occurred 14965
in a township or in a park district created pursuant to section 14966
511.18 or 1545.01 of the Revised Code and a law enforcement 14967
officer employed by the township or the park district was involved 14968
in the seizure of the drug paraphernalia, the drug paraphernalia 14969
may be given to the law enforcement agency of that township or 14970
park district if that agency desires to have and can use the drug 14971
paraphernalia. If the drug paraphernalia is not so given, it shall 14972
be disposed of by sale pursuant to division (B)(8) of this section 14973
or disposed of in another manner that the court that issued the 14974
order of forfeiture considers proper under the circumstances. 14975

(3) Drugs shall be disposed of pursuant to section 3719.11 of 14976
the Revised Code or placed in the custody of the secretary of the 14977
treasury of the United States for disposal or use for medical or 14978
scientific purposes under applicable federal law. 14979

(4) Firearms and dangerous ordnance suitable for police work 14980
may be given to a law enforcement agency for that purpose. 14981
Firearms suitable for sporting use, or as museum pieces or 14982
collectors' items, may be disposed of by sale pursuant to division 14983
(B)(8) of this section. Other firearms and dangerous ordnance 14984
shall be destroyed by a law enforcement agency or shall be sent to 14985
the bureau of criminal identification and investigation for 14986
destruction by it. As used in this division, "firearms" and 14987
"dangerous ordnance" have the same meanings as in section 2923.11 14988
of the Revised Code. 14989

(5) Computers, computer networks, computer systems, and 14990
computer software suitable for police work may be given to a law 14991

enforcement agency for that purpose. Other computers, computer 14992
networks, computer systems, and computer software shall be 14993
disposed of by sale pursuant to division (B)(8) of this section or 14994
disposed of in another manner that the court that issued the order 14995
of forfeiture considers proper under the circumstances. As used in 14996
this division, "computers," "computer networks," "computer 14997
systems," and "computer software" have the same meanings as in 14998
section 2913.01 of the Revised Code. 14999

(6) Obscene materials shall be destroyed. 15000

(7) Beer, intoxicating liquor, and alcohol shall be disposed 15001
of in accordance with division (D)(4) of section 2933.41 of the 15002
Revised Code. 15003

(8) In the case of property not described in divisions (B)(1) 15004
to (7) of this section and of property described in those 15005
divisions but not disposed of pursuant to them, the property shall 15006
be sold in accordance with division (B)(8) of this section or, in 15007
the case of forfeited moneys, disposed of in accordance with 15008
division (B)(8) of this section. If the property is to be sold, 15009
the prosecuting attorney shall cause a notice of the proposed sale 15010
of the property to be given in accordance with law, and the 15011
property shall be sold, without appraisal, at a public auction to 15012
the highest bidder for cash. The proceeds of a sale and forfeited 15013
moneys shall be applied in the following order: 15014

(a) First, to the payment of the costs incurred in connection 15015
with the seizure of, storage of, maintenance of, and provision of 15016
security for the property, the forfeiture proceeding or civil 15017
action, and, if any, the sale; 15018

(b) Second, the remaining proceeds or forfeited moneys after 15019
compliance with division (B)(8)(a) of this section, to the payment 15020
of the value of any legal right, title, or interest in the 15021
property that is possessed by a person who, pursuant to division 15022

(F) of section 2925.42 of the Revised Code or division (E) of 15023
section 2925.43 of the Revised Code, established the validity of 15024
and consequently preserved that legal right, title, or interest, 15025
including, but not limited to, any mortgage, perfected or other 15026
security interest, or other lien in the property. The value of 15027
these rights, titles, or interests shall be paid according to 15028
their record or other order of priority. 15029

(c) Third, the remaining proceeds or forfeited moneys after 15030
compliance with divisions (B)(8)(a) and (b) of this section, as 15031
follows: 15032

(i) If the forfeiture was ordered in a juvenile court, ten 15033
per cent to one or more alcohol and drug addiction treatment 15034
programs that are certified by the department of alcohol and drug 15035
addiction services under section 3793.06 of the Revised Code and 15036
that are specified in the order of forfeiture. A juvenile court 15037
shall not specify an alcohol or drug addiction treatment program 15038
in the order of forfeiture unless the program is a certified 15039
alcohol and drug addiction treatment program and, except as 15040
provided in division (B)(8)(c)(i) of this section, unless the 15041
program is located in the county in which the court that orders 15042
the forfeiture is located or in a contiguous county. If no 15043
certified alcohol and drug addiction treatment program is located 15044
in any of those counties, the juvenile court may specify in the 15045
order a certified alcohol and drug addiction treatment program 15046
located anywhere within this state. 15047

(ii) If the forfeiture was ordered in a juvenile court, 15048
ninety per cent, and if the forfeiture was ordered in a court 15049
other than a juvenile court, one hundred per cent to appropriate 15050
funds in accordance with divisions (D)(1)(c) and (2) of section 15051
2933.43 of the Revised Code. The remaining proceeds or forfeited 15052
moneys so deposited shall be used only for the purposes authorized 15053
by those divisions and division (D)(3)(a)(ii) of that section. 15054

(C)(1) Sections 2925.41 to 2925.45 of the Revised Code do not
preclude a financial institution that possessed a valid mortgage,
security interest, or lien that is not satisfied prior to a sale
under division (B)(8) of this section or following a sale by
application of division (B)(8)(b) of this section, from commencing
a civil action in any appropriate court in this or another state
to obtain a deficiency judgment against the debtor if the
financial institution otherwise would have been entitled to do so
in this or another state.

(2) Any law enforcement agency that obtains any vehicle
pursuant to division (B)(1) of this section shall take the vehicle
subject to the outstanding amount of any security interest or lien
that attaches to the vehicle.

(3) Nothing in this section impairs a mortgage, security
interest, lien, or other interest of a financial institution in
property that was the subject of a forfeiture order under section
2925.42 or 2925.43 of the Revised Code and that was sold or
otherwise disposed of in a manner that does not conform to the
requirements of division (B) of this section, or any right of a
financial institution of that nature to commence a civil action in
any appropriate court in this or another state to obtain a
deficiency judgment against the debtor.

(4) Following the sale under division (B)(8) of this section
of any property that is required to be titled or registered under
the law of this state, the prosecuting attorney responsible for
the disposition of the property shall cause the state to issue an
appropriate certificate of title or registration to the purchaser
of the property. Additionally, if, in a disposition of property
pursuant to division (B) of this section, the state or a political
subdivision is given any property that is required to be titled or
registered under the law of this state, the prosecuting attorney
responsible for the disposition of the property shall cause the

state to issue an appropriate certificate of title or registration 15087
to itself or to the political subdivision. 15088

(D) Property that has been forfeited to the state pursuant to 15089
an order of criminal forfeiture under section 2925.42 of the 15090
Revised Code or an order of civil forfeiture under section 2925.43 15091
of the Revised Code shall not be available for use to pay any fine 15092
imposed upon a person who is convicted of or pleads guilty to a 15093
felony drug abuse offense or upon any juvenile who is found by a 15094
juvenile court to be a delinquent child for an act that, if 15095
committed by an adult, would be a felony drug abuse offense. 15096

(E) Sections 2925.41 to 2925.45 of the Revised Code do not 15097
prohibit a law enforcement officer from seeking the forfeiture of 15098
contraband associated with a felony drug abuse offense pursuant to 15099
section 2933.43 of the Revised Code. 15100

Sec. 2933.43. (A)(1) Except as provided in this division or 15101
in section 2913.34 or sections 2923.44 to 2923.47 or 2925.41 to 15102
2925.45 of the Revised Code, a law enforcement officer shall seize 15103
any contraband that has been, is being, or is intended to be used 15104
in violation of division (A) of section 2933.42 of the Revised 15105
Code. A law enforcement officer shall seize contraband that is a 15106
watercraft, motor vehicle, or aircraft and that has been, is 15107
being, or is intended to be used in violation of division (A) of 15108
section 2933.42 of the Revised Code only if the watercraft, motor 15109
vehicle, or aircraft is contraband because of its relationship to 15110
an underlying criminal offense that is a felony. 15111

Additionally, a law enforcement officer shall seize any 15112
watercraft, motor vehicle, aircraft, or other personal property 15113
that is classified as contraband under division (B) of section 15114
2933.42 of the Revised Code if the underlying offense involved in 15115
the violation of division (A) of that section that resulted in the 15116
watercraft, motor vehicle, aircraft, or personal property being 15117

classified as contraband, is a felony. 15118

(2) If a law enforcement officer seizes property that is 15119
titled or registered under law, including a motor vehicle, 15120
pursuant to division (A)(1) of this section, the officer or the 15121
officer's employing law enforcement agency shall notify the owner 15122
of the seizure. The notification shall be given to the owner at 15123
the owner's last known address within seventy-two hours after the 15124
seizure, and may be given orally by any means, including 15125
telephone, or by certified mail, return receipt requested. 15126

If the officer or the officer's agency is unable to provide 15127
the notice required by this division despite reasonable, good 15128
faith efforts to do so, the exercise of the reasonable, good faith 15129
efforts constitutes fulfillment of the notice requirement imposed 15130
by this division. 15131

(B)(1) A motor vehicle seized pursuant to division (A)(1) of 15132
this section and the contents of the vehicle may be retained for a 15133
reasonable period of time, not to exceed seventy-two hours, for 15134
the purpose of inspection, investigation, and the gathering of 15135
evidence of any offense or illegal use. 15136

At any time prior to the expiration of the seventy-two-hour 15137
period, the law enforcement agency that seized the motor vehicle 15138
may petition the court of common pleas of the county that has 15139
jurisdiction over the underlying criminal case or administrative 15140
proceeding involved in the forfeiture for an extension of the 15141
seventy-two-hour period if the motor vehicle or its contents are 15142
needed as evidence or if additional time is needed for the 15143
inspection, investigation, or gathering of evidence. Upon the 15144
filing of such a petition, the court immediately shall schedule a 15145
hearing to be held at a time as soon as possible after the filing, 15146
but in no event at a time later than the end of the next business 15147
day subsequent to the day on which the petition was filed, and 15148
upon scheduling the hearing, immediately shall notify the owner of 15149

the vehicle, at the address at which notification of the seizure 15150
was provided under division (A) of this section, of the date, 15151
time, and place of the hearing. If the court, at the hearing, 15152
determines that the vehicle or its contents, or both, are needed 15153
as evidence or that additional time is needed for the inspection, 15154
investigation, or gathering of evidence, the court may grant the 15155
petition and issue an order authorizing the retention of the 15156
vehicle or its contents, or both, for an extended period as 15157
specified by the court in its order. An order extending a period 15158
of retention issued under this division may be renewed. 15159

If no petition for the extension of the initial 15160
seventy-two-hour period has been filed, prior to the expiration of 15161
that period, under this division, if the vehicle was not in the 15162
custody and control of the owner at the time of its seizure, and 15163
if, at the end of that seventy-two-hour period, the owner of the 15164
vehicle has not been charged with an offense or administrative 15165
violation that includes the use of the vehicle as an element and 15166
has not been charged with any other offense or administrative 15167
violation in the actual commission of which the motor vehicle was 15168
used, the vehicle and its contents shall be released to its owner 15169
or the owner's agent, provided that the law enforcement agency 15170
that seized the vehicle may require proof of ownership of the 15171
vehicle, proof of ownership or legal possession of the contents, 15172
and an affidavit of the owner that the owner neither knew of nor 15173
expressly or impliedly consented to the use of the vehicle that 15174
resulted in its forfeiture as conditions precedent to release. If 15175
a petition for the extension of the initial seventy-two-hour 15176
period has been filed, prior to the expiration of that period, 15177
under this division but the court does not grant the petition, if 15178
the vehicle was not in the custody and control of the owner at the 15179
time of its seizure, and if, at the end of that seventy-two-hour 15180
period, the owner of the vehicle has not been charged with an 15181
offense or administrative violation that includes the use of the 15182

vehicle as an element and has not been charged with any other 15183
offense or administrative violation in the actual commission of 15184
which the motor vehicle was used, the vehicle and its contents 15185
shall be released to its owner or the owner's agent, provided that 15186
the court may require the proof and affidavit described in the 15187
preceding sentence as conditions precedent to release. If the 15188
initial seventy-two-hour period has been extended under this 15189
division, the vehicle and its contents to which the extension 15190
applies may be retained in accordance with the extension order. 15191
If, at the end of that extended period, the owner of the vehicle 15192
has not been charged with an offense or administrative violation 15193
that includes the use of the vehicle as an element and has not 15194
been charged with any other offense or administrative violation in 15195
the actual commission of which the motor vehicle was used, and if 15196
the vehicle was not in the custody and control of the owner at the 15197
time of its seizure, the vehicle and its contents shall be 15198
released to its owner or the owner's agent, provided that the 15199
court may require the proof and affidavit described in the third 15200
preceding sentence as conditions precedent to release. In cases in 15201
which the court may require proof and affidavits as conditions 15202
precedent to release, the court also may require the posting of a 15203
bond, with sufficient sureties approved by the court, in an amount 15204
equal to the value of the property to be released, as determined 15205
by the court, and conditioned upon the return of the property to 15206
the court if it is forfeited under this section, as a further 15207
condition to release. If, at the end of the initial 15208
seventy-two-hour period or at the end of any extended period 15209
granted under this section, the owner has been charged with an 15210
offense or administrative violation that includes the use of the 15211
vehicle as an element or has been charged with another offense or 15212
administrative violation in the actual commission of which the 15213
motor vehicle was used, or if the vehicle was in the custody and 15214
control of the owner at the time of its seizure, the vehicle and 15215

its contents shall be retained pending disposition of the charge, 15216
provided that upon the filing of a motion for release by the 15217
owner, if the court determines that the motor vehicle or its 15218
contents, or both, are not needed as evidence in the underlying 15219
criminal case or administrative proceeding, the court may permit 15220
the release of the property that is not needed as evidence to the 15221
owner; as a condition precedent to a release of that nature, the 15222
court may require the owner to execute a bond with the court. Any 15223
bond so required shall be in an amount equal to the value of the 15224
property to be released, as determined by the court, shall have 15225
sufficient sureties approved by the court, and shall be 15226
conditioned upon the return of the property to the court to which 15227
it is forfeited under this section. 15228

The final disposition of a motor vehicle seized pursuant to 15229
division (A)(1) of this section shall be determined in accordance 15230
with division (C) of this section. 15231

(2) Pending a hearing pursuant to division (C) of this 15232
section, and subject to divisions (B)(1) and (C) of this section, 15233
any property lawfully seized pursuant to division (A) of this 15234
section because it was contraband of a type described in division 15235
(A)(13)(b), (d), (e), (f), (g), (h), (i), or (j) of section 15236
2901.01 of the Revised Code shall not be subject to replevin or 15237
other action in any court and shall not be subject to release upon 15238
request of the owner, and no judgment shall be enforced against 15239
the property. Pending the hearing, and subject to divisions (B)(1) 15240
and (C) of this section, the property shall be kept in the custody 15241
of the law enforcement agency responsible for its seizure. 15242

Pending a hearing pursuant to division (C) of this section, 15243
and notwithstanding any provisions of division (B)(1) or (C) of 15244
this section to the contrary, any property lawfully seized 15245
pursuant to division (A) of this section because it was contraband 15246
of a type described in division (A)(13)(a) or (c) of section 15247

2901.01 of the Revised Code shall not be subject to replevin or 15248
other action in any court and shall not be subject to release upon 15249
request of the owner, and no judgment shall be enforced against 15250
the property. Pending the hearing, and notwithstanding any 15251
provisions of division (B)(1) or (C) of this section to the 15252
contrary, the property shall be kept in the custody of the law 15253
enforcement agency responsible for its seizure. 15254

A law enforcement agency that seizes property under division 15255
(A) of this section because it was contraband of any type 15256
described in division (A)(13) of section 2901.01 or division (B) 15257
of section 2933.42 of the Revised Code shall maintain an accurate 15258
record of each item of property so seized, which record shall 15259
include the date on which each item was seized, the manner and 15260
date of its disposition, and if applicable, the name of the person 15261
who received the item; however, the record shall not identify or 15262
enable the identification of the individual officer who seized the 15263
item. The record of property of that nature that no longer is 15264
needed as evidence shall be open to public inspection during the 15265
agency's regular business hours. Each law enforcement agency that, 15266
during any calendar year, seizes property under division (A) of 15267
this section because it was contraband shall prepare a report 15268
covering the calendar year that cumulates all of the information 15269
contained in all of the records kept by the agency pursuant to 15270
this division for that calendar year, and shall send a copy of the 15271
cumulative report, no later than the first day of March in the 15272
calendar year following the calendar year covered by the report, 15273
to the attorney general. Each report received by the attorney 15274
general is a public record open for inspection under section 15275
149.43 of the Revised Code. Not later than the fifteenth day of 15276
April in the calendar year in which the reports are received, the 15277
attorney general shall send to the president of the senate and the 15278
speaker of the house of representatives a written notification 15279
that does all of the following: 15280

(a) Indicates that the attorney general has received from law enforcement agencies reports of the type described in this division that cover the previous calendar year and indicates that the reports were received under this division;

(b) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;

(c) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.

(C) The prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who has responsibility for the prosecution of the underlying criminal case or administrative proceeding, or the attorney general if the attorney general has that responsibility, shall file a petition for the forfeiture, to the seizing law enforcement agency of the contraband seized pursuant to division (A) of this section. The petition shall be filed in the court that has jurisdiction over the underlying criminal case or administrative proceeding involved in the forfeiture. If the property was seized on the basis of both a criminal violation and an administrative regulation violation, the petition shall be filed by the officer and in the court that is appropriate in relation to the criminal case.

The petitioner shall conduct or cause to be conducted a search of the appropriate public records that relate to the seized property for the purpose of determining, and shall make or cause to be made reasonably diligent inquiries for the purpose of determining, any person having an ownership or security interest in the property. The petitioner then shall give notice of the forfeiture proceedings by personal service or by certified mail, return receipt requested, to any persons known, because of the conduct of the search, the making of the inquiries, or otherwise,

to have an ownership or security interest in the property, and 15312
shall publish notice of the proceedings once each week for two 15313
consecutive weeks in a newspaper of general circulation in the 15314
county in which the seizure occurred. The notices shall be 15315
personally served, mailed, and first published at least four weeks 15316
before the hearing. They shall describe the property seized; state 15317
the date and place of seizure; name the law enforcement agency 15318
that seized the property and, if applicable, that is holding the 15319
property; list the time, date, and place of the hearing; and state 15320
that any person having an ownership or security interest in the 15321
property may contest the forfeiture. 15322

If the property seized was determined by the seizing law 15323
enforcement officer to be contraband because of its relationship 15324
to an underlying criminal offense or administrative violation, no 15325
forfeiture hearing shall be held under this section unless the 15326
person pleads guilty to or is convicted of the commission of, or 15327
an attempt or conspiracy to commit, the offense or a different 15328
offense arising out of the same facts and circumstances or unless 15329
the person admits or is adjudicated to have committed the 15330
administrative violation or a different violation arising out of 15331
the same facts and circumstances; a forfeiture hearing shall be 15332
held in a case of that nature no later than forty-five days after 15333
the conviction or the admission or adjudication of the violation, 15334
unless the time for the hearing is extended by the court for good 15335
cause shown. The owner of any property seized because of its 15336
relationship to an underlying criminal offense or administrative 15337
violation may request the court to release the property to the 15338
owner. Upon receipt of a request of that nature, if the court 15339
determines that the property is not needed as evidence in the 15340
underlying criminal case or administrative proceeding, the court 15341
may permit the release of the property to the owner. As a 15342
condition precedent to a release of that nature, the court may 15343
require the owner to execute a bond with the court. Any bond so 15344

required shall have sufficient sureties approved by the court, 15345
shall be in a sum equal to the value of the property, as 15346
determined by the court, and shall be conditioned upon the return 15347
of the property to the court if the property is forfeited under 15348
this section. Any property seized because of its relationship to 15349
an underlying criminal offense or administrative violation shall 15350
be returned to its owner if charges are not filed in relation to 15351
that underlying offense or violation within thirty days after the 15352
seizure, if charges of that nature are filed and subsequently are 15353
dismissed, or if charges of that nature are filed and the person 15354
charged does not plead guilty to and is not convicted of the 15355
offense or does not admit and is not found to have committed the 15356
violation. 15357

If the property seized was determined by the seizing law 15358
enforcement officer to be contraband other than because of a 15359
relationship to an underlying criminal offense or administrative 15360
violation, the forfeiture hearing under this section shall be held 15361
no later than forty-five days after the seizure, unless the time 15362
for the hearing is extended by the court for good cause shown. 15363

Where possible, a court holding a forfeiture hearing under 15364
this section shall follow the Rules of Civil Procedure. When a 15365
hearing is conducted under this section, property shall be 15366
forfeited upon a showing, by a preponderance of the evidence, by 15367
the petitioner that the person from which the property was seized 15368
was in violation of division (A) of section 2933.42 of the Revised 15369
Code. If that showing is made, the court shall issue an order of 15370
forfeiture. If an order of forfeiture is issued in relation to 15371
contraband that was released to the owner or the owner's agent 15372
pursuant to this division or division (B)(1) of this section, the 15373
order shall require the owner to deliver the property, by a 15374
specified date, to the law enforcement agency that employed the 15375
law enforcement officer who made the seizure of the property, and 15376

the court shall deliver a copy of the order to the owner or send a 15377
copy of it by certified mail, return receipt requested, to the 15378
owner at the address to which notice of the seizure was given 15379
under division (A)(2) of this section. Except as otherwise 15380
provided in this division, all rights, interest, and title to the 15381
forfeited contraband vests in the state, effective from the date 15382
of seizure. 15383

No property shall be forfeited pursuant to this division if 15384
the owner of the property establishes, by a preponderance of the 15385
evidence, that the owner neither knew, nor should have known after 15386
a reasonable inquiry, that the property was used, or was likely to 15387
be used, in a crime or administrative violation. No bona fide 15388
security interest shall be forfeited pursuant to this division if 15389
the holder of the interest establishes, by a preponderance of the 15390
evidence, that the holder of the interest neither knew, nor should 15391
have known after a reasonable inquiry, that the property was used, 15392
or likely to be used, in a crime or administrative violation, that 15393
the holder of the interest did not expressly or impliedly consent 15394
to the use of the property in a crime or administrative violation, 15395
and that the security interest was perfected pursuant to law prior 15396
to the seizure. If the holder of the interest satisfies the court 15397
that these requirements are met, the interest shall be preserved 15398
by the court. In a case of that nature, the court shall either 15399
order that the agency to which the property is forfeited reimburse 15400
the holder of the interest to the extent of the preserved interest 15401
or order that the holder be paid for the interest from the 15402
proceeds of any sale pursuant to division (D) of this section. 15403

(D)(1) Contraband ordered forfeited pursuant to this section 15404
shall be disposed of pursuant to divisions (D)(1) to (7) of 15405
section 2933.41 of the Revised Code or, if the contraband is not 15406
described in those divisions, may be used, with the approval of 15407
the court, by the law enforcement agency that has custody of the 15408

contraband pursuant to division (D)(8) of that section. In the 15409
case of contraband not described in any of those divisions and of 15410
contraband not disposed of pursuant to any of those divisions, the 15411
contraband shall be sold in accordance with this division or, in 15412
the case of forfeited moneys, disposed of in accordance with this 15413
division. If the contraband is to be sold, the prosecuting 15414
attorney shall cause a notice of the proposed sale of the 15415
contraband to be given in accordance with law, and the property 15416
shall be sold, without appraisal, at a public auction to the 15417
highest bidder for cash. The proceeds of a sale and forfeited 15418
moneys shall be applied in the following order: 15419

(a) First, to the payment of the costs incurred in connection 15420
with the seizure of, storage of, maintenance of, and provision of 15421
security for the contraband, the forfeiture proceeding, and, if 15422
any, the sale; 15423

(b) Second, the remaining proceeds or forfeited moneys after 15424
compliance with division (D)(1)(a) of this section, to the payment 15425
of the balance due on any security interest preserved pursuant to 15426
division (C) of this section; 15427

(c) Third, the remaining proceeds or forfeited moneys after 15428
compliance with divisions (D)(1)(a) and (b) of this section, as 15429
follows: 15430

(i) If the forfeiture was ordered in a juvenile court, ten 15431
per cent to one or more alcohol and drug addiction treatment 15432
programs that are certified by the department of alcohol and drug 15433
addiction services under section 3793.06 of the Revised Code and 15434
that are specified in the order of forfeiture. A juvenile court 15435
shall not certify an alcohol or drug addiction treatment program 15436
in the order of forfeiture unless the program is a certified 15437
alcohol and drug addiction treatment program and, except as 15438
provided in division (D)(1)(c)(i) of this section, unless the 15439
program is located in the county in which the court that orders 15440

the forfeiture is located or in a contiguous county. If no 15441
certified alcohol and drug addiction treatment program is located 15442
in any of those counties, the juvenile court may specify in the 15443
order a certified alcohol and drug addiction treatment program 15444
located anywhere within this state. 15445

(ii) If the forfeiture was ordered in a juvenile court, 15446
ninety per cent, and if the forfeiture was ordered in a court 15447
other than a juvenile court, one hundred per cent to the law 15448
enforcement trust fund of the prosecuting attorney and to the law 15449
enforcement trust fund of the county sheriff if the county sheriff 15450
made the seizure, to the law enforcement trust fund of a municipal 15451
corporation if its police department made the seizure, to the law 15452
enforcement trust fund of a township if the seizure was made by a 15453
township police department, township police district police force, 15454
or office of a township constable, to the law enforcement trust 15455
fund of a park district created pursuant to section 511.18 or 15456
1545.01 of the Revised Code if the seizure was made by the park 15457
district police force or law enforcement department, to the state 15458
highway patrol contraband, forfeiture, and other fund if the state 15459
highway patrol made the seizure, to the department of public 15460
safety investigative unit contraband, forfeiture, and other fund 15461
if the investigative unit of the department of public safety made 15462
the seizure, to the department of taxation enforcement fund if the 15463
department of taxation made the seizure, to the board of pharmacy 15464
drug law enforcement fund created by division (B)(1) of section 15465
4729.65 of the Revised Code if the board made the seizure, or to 15466
the treasurer of state for deposit into the peace officer training 15467
commission fund if a state law enforcement agency, other than the 15468
state highway patrol, the investigative unit of the department of 15469
public safety, the enforcement division of the department of 15470
taxation, or the state board of pharmacy, made the seizure. The 15471
prosecuting attorney may decline to accept any of the remaining 15472
proceeds or forfeited moneys, and, if the prosecuting attorney so 15473

declines, the remaining proceeds or forfeited moneys shall be 15474
applied to the fund described in this division that relates to the 15475
law enforcement agency that made the seizure. 15476

A law enforcement trust fund shall be established by the 15477
prosecuting attorney of each county who intends to receive any 15478
remaining proceeds or forfeited moneys pursuant to this division, 15479
by the sheriff of each county, by the legislative authority of 15480
each municipal corporation, by the board of township trustees of 15481
each township that has a township police department, township 15482
police district police force, or office of the constable, and by 15483
the board of park commissioners of each park district created 15484
pursuant to section 511.18 or 1545.01 of the Revised Code that has 15485
a park district police force or law enforcement department, for 15486
the purposes of this division. There is hereby created in the 15487
state treasury the state highway patrol contraband, forfeiture, 15488
and other fund, the department of public safety investigative unit 15489
contraband, forfeiture, and other fund, the department of taxation 15490
enforcement fund, and the peace officer training commission fund, 15491
for the purposes described in this division. 15492

Proceeds or forfeited moneys distributed to any municipal 15493
corporation, township, or park district law enforcement trust fund 15494
shall be allocated from the fund by the legislative authority only 15495
to the police department of the municipal corporation, by the 15496
board of township trustees only to the township police department, 15497
township police district police force, or office of the constable, 15498
and by the board of park commissioners only to the park district 15499
police force or law enforcement department. 15500

Additionally, no proceeds or forfeited moneys shall be 15501
allocated to or used by the state highway patrol, the department 15502
of public safety, the department of taxation, the state board of 15503
pharmacy, or a county sheriff, prosecuting attorney, municipal 15504
corporation police department, township police department, 15505

township police district police force, office of the constable, or 15506
park district police force or law enforcement department unless 15507
the state highway patrol, department of public safety, department 15508
of taxation, state board of pharmacy, sheriff, prosecuting 15509
attorney, municipal corporation police department, township police 15510
department, township police district police force, office of the 15511
constable, or park district police force or law enforcement 15512
department has adopted a written internal control policy under 15513
division (D)(3) of this section that addresses the use of moneys 15514
received from the state highway patrol contraband, forfeiture, and 15515
other fund, the department of public safety investigative unit 15516
contraband, forfeiture, and other fund, the department of taxation 15517
enforcement fund, the board of pharmacy drug law enforcement fund, 15518
or the appropriate law enforcement trust fund. 15519

The state highway patrol contraband, forfeiture, and other 15520
fund, the department of public safety investigative unit 15521
contraband, forfeiture, and other fund, the department of taxation 15522
enforcement fund, and a law enforcement trust fund shall be 15523
expended only in accordance with the written internal control 15524
policy so adopted by the recipient, and, subject to the 15525
requirements specified in division (D)(3)(a)(ii) of this section, 15526
only to pay the costs of protracted or complex investigations or 15527
prosecutions, to provide reasonable technical training or 15528
expertise, to provide matching funds to obtain federal grants to 15529
aid law enforcement, in the support of DARE programs or other 15530
programs designed to educate adults or children with respect to 15531
the dangers associated with the use of drugs of abuse, to pay the 15532
costs of emergency action taken under section 3745.13 of the 15533
Revised Code relative to the operation of an illegal 15534
methamphetamine laboratory if the forfeited property or money 15535
involved was that of a person responsible for the operation of the 15536
laboratory, or for other law enforcement purposes that the 15537
superintendent of the state highway patrol, department of public 15538

safety, department of taxation, prosecuting attorney, county 15539
sheriff, legislative authority, board of township trustees, or 15540
board of park commissioners determines to be appropriate. The 15541
board of pharmacy drug law enforcement fund shall be expended only 15542
in accordance with the written internal control policy so adopted 15543
by the board and only in accordance with section 4729.65 of the 15544
Revised Code, except that it also may be expended to pay the costs 15545
of emergency action taken under section 3745.13 of the Revised 15546
Code relative to the operation of an illegal methamphetamine 15547
laboratory if the forfeited property or money involved was that of 15548
a person responsible for the operation of the laboratory. The 15549
state highway patrol contraband, forfeiture, and other fund, the 15550
department of public safety investigative unit contraband, 15551
forfeiture, and other fund, the department of taxation enforcement 15552
fund, the board of pharmacy drug law enforcement fund, and a law 15553
enforcement trust fund shall not be used to meet the operating 15554
costs of the state highway patrol, of the investigative unit of 15555
the department of public safety, of the department of taxation 15556
enforcement division, of the state board of pharmacy, of any 15557
political subdivision, or of any office of a prosecuting attorney 15558
or county sheriff that are unrelated to law enforcement. 15559

Proceeds and forfeited moneys that are paid into the state 15560
treasury to be deposited into the peace officer training 15561
commission fund shall be used by the commission only to pay the 15562
costs of peace officer training. 15563

Any sheriff or prosecuting attorney who receives proceeds or 15564
forfeited moneys pursuant to this division during any calendar 15565
year shall file a report with the county auditor, no later than 15566
the thirty-first day of January of the next calendar year, 15567
verifying that the proceeds and forfeited moneys were expended 15568
only for the purposes authorized by this division and division 15569
(D)(3)(a)(ii) of this section and specifying the amounts expended 15570

for each authorized purpose. Any municipal corporation police 15571
department that is allocated proceeds or forfeited moneys from a 15572
municipal corporation law enforcement trust fund pursuant to this 15573
division during any calendar year shall file a report with the 15574
legislative authority of the municipal corporation, no later than 15575
the thirty-first day of January of the next calendar year, 15576
verifying that the proceeds and forfeited moneys were expended 15577
only for the purposes authorized by this division and division 15578
(D)(3)(a)(ii) of this section and specifying the amounts expended 15579
for each authorized purpose. Any township police department, 15580
township police district police force, or office of the constable 15581
that is allocated proceeds or forfeited moneys from a township law 15582
enforcement trust fund pursuant to this division during any 15583
calendar year shall file a report with the board of township 15584
trustees of the township, no later than the thirty-first day of 15585
January of the next calendar year, verifying that the proceeds and 15586
forfeited moneys were expended only for the purposes authorized by 15587
this division and division (D)(3)(a)(ii) of this section and 15588
specifying the amounts expended for each authorized purpose. Any 15589
park district police force or law enforcement department that is 15590
allocated proceeds or forfeited moneys from a park district law 15591
enforcement trust fund pursuant to this division during any 15592
calendar year shall file a report with the board of park 15593
commissioners of the park district, no later than the thirty-first 15594
day of January of the next calendar year, verifying that the 15595
proceeds and forfeited moneys were expended only for the purposes 15596
authorized by this division and division (D)(3)(a)(ii) of this 15597
section and specifying the amounts expended for each authorized 15598
purpose. The superintendent of the state highway patrol shall file 15599
a report with the attorney general, no later than the thirty-first 15600
day of January of each calendar year, verifying that proceeds and 15601
forfeited moneys paid into the state highway patrol contraband, 15602
forfeiture, and other fund pursuant to this division during the 15603

prior calendar year were used by the state highway patrol during 15604
the prior calendar year only for the purposes authorized by this 15605
division and specifying the amounts expended for each authorized 15606
purpose. The executive director of the state board of pharmacy 15607
shall file a report with the attorney general, no later than the 15608
thirty-first day of January of each calendar year, verifying that 15609
proceeds and forfeited moneys paid into the board of pharmacy drug 15610
law enforcement fund during the prior calendar year were used only 15611
in accordance with section 4729.65 of the Revised Code and 15612
specifying the amounts expended for each authorized purpose. The 15613
peace officer training commission shall file a report with the 15614
attorney general, no later than the thirty-first day of January of 15615
each calendar year, verifying that proceeds and forfeited moneys 15616
paid into the peace officer training commission fund pursuant to 15617
this division during the prior calendar year were used by the 15618
commission during the prior calendar year only to pay the costs of 15619
peace officer training and specifying the amount used for that 15620
purpose. 15621

The tax commissioner shall file a report with the attorney 15622
general, not later than the thirty-first day of January of each 15623
calendar year, verifying that proceeds and forfeited moneys paid 15624
into the department of taxation enforcement fund pursuant to this 15625
division during the prior calendar year were used by the 15626
enforcement division during the prior calendar year to pay only 15627
the costs of enforcing the tax laws and specifying the amount used 15628
for that purpose. 15629

(2) If more than one law enforcement agency is substantially 15630
involved in the seizure of contraband that is forfeited pursuant 15631
to this section, the court ordering the forfeiture shall equitably 15632
divide the proceeds or forfeited moneys, after calculating any 15633
distribution to the law enforcement trust fund of the prosecuting 15634
attorney pursuant to division (D)(1)(c) of this section, among any 15635

county sheriff whose office is determined by the court to be 15636
substantially involved in the seizure, any legislative authority 15637
of a municipal corporation whose police department is determined 15638
by the court to be substantially involved in the seizure, any 15639
board of township trustees whose law enforcement agency is 15640
determined by the court to be substantially involved in the 15641
seizure, any board of park commissioners of a park district whose 15642
police force or law enforcement department is determined by the 15643
court to be substantially involved in the seizure, the state board 15644
of pharmacy if it is determined by the court to be substantially 15645
involved in the seizure, the investigative unit of the department 15646
of public safety if it is determined by the court to be 15647
substantially involved in the seizure, the enforcement division of 15648
the department of taxation if it is determined by the court to be 15649
substantially involved in the seizure, and the state highway 15650
patrol if it is determined by the court to be substantially 15651
involved in the seizure. The proceeds or forfeited moneys shall be 15652
deposited in the respective law enforcement trust funds of the 15653
county sheriff, municipal corporation, township, and park 15654
district, the board of pharmacy drug law enforcement fund, the 15655
department of public safety investigative unit contraband, 15656
forfeiture, and other fund, the department of taxation enforcement 15657
fund, or the state highway patrol contraband, forfeiture, and 15658
other fund, in accordance with division (D)(1)(c) of this section. 15659
If a state law enforcement agency, other than the state highway 15660
patrol, the investigative unit of the department of public safety, 15661
the department of taxation, or the state board of pharmacy, is 15662
determined by the court to be substantially involved in the 15663
seizure, the state agency's equitable share of the proceeds and 15664
forfeited moneys shall be paid to the treasurer of state for 15665
deposit into the peace officer training commission fund. 15666

(3)(a)(i) Prior to being allocated or using any proceeds or 15667
forfeited moneys out of the state highway patrol contraband, 15668

forfeiture, and other fund, the department of public safety 15669
investigative unit contraband, forfeiture, and other fund, the 15670
department of taxation enforcement fund, the board of pharmacy 15671
drug law enforcement fund, or a law enforcement trust fund under 15672
division (D)(1)(c) of this section, the state highway patrol, the 15673
department of public safety, the department of taxation, the state 15674
board of pharmacy, and a county sheriff, prosecuting attorney, 15675
municipal corporation police department, township police 15676
department, township police district police force, office of the 15677
constable, or park district police force or law enforcement 15678
department shall adopt a written internal control policy that 15679
addresses the state highway patrol's, department of public 15680
safety's, department of taxation's, state board of pharmacy's, 15681
sheriff's, prosecuting attorney's, police department's, police 15682
force's, office of the constable's, or law enforcement 15683
department's use and disposition of all the proceeds and forfeited 15684
moneys received and that provides for the keeping of detailed 15685
financial records of the receipts of the proceeds and forfeited 15686
moneys, the general types of expenditures made out of the proceeds 15687
and forfeited moneys, the specific amount of each general type of 15688
expenditure, and the amounts, portions, and programs described in 15689
division (D)(3)(a)(ii) of this section. The policy shall not 15690
provide for or permit the identification of any specific 15691
expenditure that is made in an ongoing investigation. 15692

All financial records of the receipts of the proceeds and 15693
forfeited moneys, the general types of expenditures made out of 15694
the proceeds and forfeited moneys, the specific amount of each 15695
general type of expenditure by the state highway patrol, by the 15696
department of public safety, by the department of taxation, by the 15697
state board of pharmacy, and by a sheriff, prosecuting attorney, 15698
municipal corporation police department, township police 15699
department, township police district police force, office of the 15700
constable, or park district police force or law enforcement 15701

department, and the amounts, portions, and programs described in 15702
division (D)(3)(a)(ii) of this section are public records open for 15703
inspection under section 149.43 of the Revised Code. Additionally, 15704
a written internal control policy adopted under this division is a 15705
public record of that nature, and the state highway patrol, the 15706
department of public safety, the department of taxation, the state 15707
board of pharmacy, or the sheriff, prosecuting attorney, municipal 15708
corporation police department, township police department, 15709
township police district police force, office of the constable, or 15710
park district police force or law enforcement department that 15711
adopted it shall comply with it. 15712

(ii) The written internal control policy of a county sheriff, 15713
prosecuting attorney, municipal corporation police department, 15714
township police department, township police district police force, 15715
office of the constable, or park district police force or law 15716
enforcement department shall provide that at least ten per cent of 15717
the first one hundred thousand dollars of proceeds and forfeited 15718
moneys deposited during each calendar year in the sheriff's, 15719
prosecuting attorney's, municipal corporation's, township's, or 15720
park district's law enforcement trust fund pursuant to division 15721
(B)(7)(c)(ii) of section 2923.46 or division (B)(8)(c)(ii) of 15722
section 2925.44 of the Revised Code, and at least twenty per cent 15723
of the proceeds and forfeited moneys exceeding one hundred 15724
thousand dollars that are so deposited, shall be used in 15725
connection with community preventive education programs. The 15726
manner in which the described percentages are so used shall be 15727
determined by the sheriff, prosecuting attorney, department, 15728
police force, or office of the constable after the receipt and 15729
consideration of advice on appropriate community preventive 15730
education programs from the county's board of alcohol, drug 15731
addiction, and mental health services, from the county's alcohol 15732
and drug addiction services board, or through appropriate 15733
community dialogue. The financial records described in division 15734

(D)(3)(a)(i) of this section shall specify the amount of the 15735
proceeds and forfeited moneys deposited during each calendar year 15736
in the sheriff's, prosecuting attorney's, municipal corporation's, 15737
township's, or park district's law enforcement trust fund pursuant 15738
to division (B)(7)(c)(ii) of section 2923.46 or division 15739
(B)(8)(c)(ii) of section 2925.44 of the Revised Code, the portion 15740
of that amount that was used pursuant to the requirements of this 15741
division, and the community preventive education programs in 15742
connection with which the portion of that amount was so used. 15743

As used in this division, "community preventive education 15744
programs" includes, but is not limited to, DARE programs and other 15745
programs designed to educate adults or children with respect to 15746
the dangers associated with the use of drugs of abuse. 15747

(b) Each sheriff, prosecuting attorney, municipal corporation 15748
police department, township police department, township police 15749
district police force, office of the constable, or park district 15750
police force or law enforcement department that receives in any 15751
calendar year any proceeds or forfeited moneys out of a law 15752
enforcement trust fund under division (D)(1)(c) of this section or 15753
uses any proceeds or forfeited moneys in its law enforcement trust 15754
fund in any calendar year shall prepare a report covering the 15755
calendar year that cumulates all of the information contained in 15756
all of the public financial records kept by the sheriff, 15757
prosecuting attorney, municipal corporation police department, 15758
township police department, township police district police force, 15759
office of the constable, or park district police force or law 15760
enforcement department pursuant to division (D)(3)(a) of this 15761
section for that calendar year, and shall send a copy of the 15762
cumulative report, no later than the first day of March in the 15763
calendar year following the calendar year covered by the report, 15764
to the attorney general. 15765

The superintendent of the state highway patrol shall prepare 15766

a report covering each calendar year in which the state highway 15767
patrol uses any proceeds or forfeited moneys in the state highway 15768
patrol contraband, forfeiture, and other fund under division 15769
(D)(1)(c) of this section, that cumulates all of the information 15770
contained in all of the public financial records kept by the state 15771
highway patrol pursuant to division (D)(3)(a) of this section for 15772
that calendar year, and shall send a copy of the cumulative 15773
report, no later than the first day of March in the calendar year 15774
following the calendar year covered by the report, to the attorney 15775
general. 15776

The department of public safety shall prepare a report 15777
covering each fiscal year in which the department uses any 15778
proceeds or forfeited moneys in the department of public safety 15779
investigative unit contraband, forfeiture, and other fund under 15780
division (D)(1)(c) of this section that cumulates all of the 15781
information contained in all of the public financial records kept 15782
by the department pursuant to division (D)(3)(a) of this section 15783
for that fiscal year. The department shall send a copy of the 15784
cumulative report to the attorney general no later than the first 15785
day of August in the fiscal year following the fiscal year covered 15786
by the report. The director of public safety shall include in the 15787
report a verification that proceeds and forfeited moneys paid into 15788
the department of public safety investigative unit contraband, 15789
forfeiture, and other fund under division (D)(1)(c) of this 15790
section during the preceding fiscal year were used by the 15791
department during that fiscal year only for the purposes 15792
authorized by that division and shall specify the amount used for 15793
each authorized purpose. 15794

The tax commissioner shall prepare a report covering each 15795
calendar year in which the department of taxation enforcement 15796
division uses any proceeds or forfeited moneys in the department 15797
of taxation enforcement fund under division (D)(1)(c) of this 15798

section, that cumulates all of the information contained in all of 15799
the public financial records kept by the department of taxation 15800
enforcement division pursuant to division (D)(3)(a) of this 15801
section for that calendar year, and shall send a copy of the 15802
cumulative report, not later than the first day of March in the 15803
calendar year following the calendar year covered by the report, 15804
to the attorney general. 15805

The executive director of the state board of pharmacy shall 15806
prepare a report covering each calendar year in which the board 15807
uses any proceeds or forfeited moneys in the board of pharmacy 15808
drug law enforcement fund under division (D)(1)(c) of this 15809
section, that cumulates all of the information contained in all of 15810
the public financial records kept by the board pursuant to 15811
division (D)(3)(a) of this section for that calendar year, and 15812
shall send a copy of the cumulative report, no later than the 15813
first day of March in the calendar year following the calendar 15814
year covered by the report, to the attorney general. Each report 15815
received by the attorney general is a public record open for 15816
inspection under section 149.43 of the Revised Code. Not later 15817
than the fifteenth day of April in the calendar year in which the 15818
reports are received, the attorney general shall send to the 15819
president of the senate and the speaker of the house of 15820
representatives a written notification that does all of the 15821
following: 15822

(i) Indicates that the attorney general has received from 15823
entities or persons specified in this division reports of the type 15824
described in this division that cover the previous calendar year 15825
and indicates that the reports were received under this division; 15826

(ii) Indicates that the reports are open for inspection under 15827
section 149.43 of the Revised Code; 15828

(iii) Indicates that the attorney general will provide a copy 15829
of any or all of the reports to the president of the senate or the 15830

speaker of the house of representatives upon request. 15831

(4)(a) A law enforcement agency that receives pursuant to 15832
federal law proceeds from a sale of forfeited contraband, proceeds 15833
from another disposition of forfeited contraband, or forfeited 15834
contraband moneys shall deposit, use, and account for the proceeds 15835
or forfeited moneys in accordance with, and otherwise comply with, 15836
the applicable federal law. 15837

(b) If the state highway patrol receives pursuant to federal 15838
law proceeds from a sale of forfeited contraband, proceeds from 15839
another disposition of forfeited contraband, or forfeited 15840
contraband moneys, the appropriate governmental officials shall 15841
deposit into the state highway patrol contraband, forfeiture, and 15842
other fund all interest or other earnings derived from the 15843
investment of the proceeds or forfeited moneys. The state highway 15844
patrol shall use and account for that interest or other earnings 15845
in accordance with the applicable federal law. 15846

(c) If the investigative unit of the department of public 15847
safety receives pursuant to federal law proceeds from a sale of 15848
forfeited contraband, proceeds from another disposition of 15849
forfeited contraband, or forfeited contraband moneys, the 15850
appropriate governmental officials shall deposit into the 15851
department of public safety investigative unit contraband, 15852
forfeiture, and other fund all interest or other earnings derived 15853
from the investment of the proceeds or forfeited moneys. The 15854
department shall use and account for that interest or other 15855
earnings in accordance with the applicable federal law. 15856

(d) If the tax commissioner receives pursuant to federal law 15857
proceeds from a sale of forfeited contraband, proceeds from 15858
another disposition of forfeited contraband, or forfeited 15859
contraband moneys, the appropriate governmental officials shall 15860
deposit into the department of taxation enforcement fund all 15861
interest or other earnings derived from the investment of the 15862

proceeds or forfeited moneys. The department shall use and account 15863
for that interest or other earnings in accordance with the 15864
applicable federal law. 15865

(e) Divisions (D)(1) to (3) of this section do not apply to 15866
proceeds or forfeited moneys received pursuant to federal law or 15867
to the interest or other earnings that are derived from the 15868
investment of proceeds or forfeited moneys received pursuant to 15869
federal law and that are described in division (D)(4)(b) of this 15870
section. 15871

(E) Upon the sale pursuant to this section of any property 15872
that is required to be titled or registered under law, the state 15873
shall issue an appropriate certificate of title or registration to 15874
the purchaser. If the state is vested with title pursuant to 15875
division (C) of this section and elects to retain property that is 15876
required to be titled or registered under law, the state shall 15877
issue an appropriate certificate of title or registration. 15878

(F) Notwithstanding any provisions of this section to the 15879
contrary, any property that is lawfully seized in relation to a 15880
violation of section 2923.32 of the Revised Code shall be subject 15881
to forfeiture and disposition in accordance with sections 2923.32 15882
to 2923.36 of the Revised Code; any property that is forfeited 15883
pursuant to section 2923.44 or 2923.45 of the Revised Code in 15884
relation to a violation of section 2923.42 of the Revised Code or 15885
in relation to an act of a juvenile that is a violation of section 15886
2923.42 of the Revised Code may be subject to forfeiture and 15887
disposition in accordance with sections 2923.44 to 2923.47 of the 15888
Revised Code; and any property that is forfeited pursuant to 15889
section 2925.42 or 2925.43 of the Revised Code in relation to a 15890
felony drug abuse offense, as defined in section 2925.01 of the 15891
Revised Code, or in relation to an act that, if committed by an 15892
adult, would be a felony drug abuse offense of that nature, may be 15893
subject to forfeiture and disposition in accordance with sections 15894

2925.41 to 2925.45 of the Revised Code or this section.	15895
(G) Any failure of a law enforcement officer or agency, a prosecuting attorney, village solicitor, city director of law, or similar chief legal officer, a court, or the attorney general to comply with any duty imposed by this section in relation to any property seized or with any other provision of this section in relation to any property seized does not affect the validity of the seizure of the property, provided the seizure itself was made in accordance with law, and is not and shall not be considered to be the basis for the suppression of any evidence resulting from the seizure of the property, provided the seizure itself was made in accordance with law.	15896 15897 15898 15899 15900 15901 15902 15903 15904 15905 15906
(H) Contraband that has been forfeited pursuant to division (C) of this section shall not be available for use to pay any fine imposed upon a person who is convicted of or pleads guilty to an underlying criminal offense or a different offense arising out of the same facts and circumstances.	15907 15908 15909 15910 15911
Sec. 2935.01. As used in this chapter:	15912
(A) "Magistrate" has the same meaning as in section 2931.01 of the Revised Code.	15913 15914
(B) "Peace officer" includes, except as provided in section 2935.081 of the Revised Code, a sheriff; deputy sheriff; marshal; deputy marshal; member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio under a contract pursuant to section 737.04 of the Revised Code; member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code; member of a police force employed by a regional transit authority under division (Y) of section 306.05 of the Revised Code; state university law enforcement officer appointed	15915 15916 15917 15918 15919 15920 15921 15922 15923 15924 15925

under section 3345.04 of the Revised Code; enforcement agent of 15926
the department of public safety designated under section 5502.14 15927
of the Revised Code; employee of the department of taxation to 15928
whom investigation powers have been delegated under section 15929
~~5743.45~~ 5703.58 of the Revised Code; employee of the department of 15930
natural resources who is a natural resources law enforcement staff 15931
officer designated pursuant to section 1501.013 of the Revised 15932
Code, a forest officer designated pursuant to section 1503.29 of 15933
the Revised Code, a preserve officer designated pursuant to 15934
section 1517.10 of the Revised Code, a wildlife officer designated 15935
pursuant to section 1531.13 of the Revised Code, a park officer 15936
designated pursuant to section 1541.10 of the Revised Code, or a 15937
state watercraft officer designated pursuant to section 1547.521 15938
of the Revised Code; individual designated to perform law 15939
enforcement duties under section 511.232, 1545.13, or 6101.75 of 15940
the Revised Code; veterans' home police officer appointed under 15941
section 5907.02 of the Revised Code; special police officer 15942
employed by a port authority under section 4582.04 or 4582.28 of 15943
the Revised Code; police constable of any township; police officer 15944
of a township or joint township police district; a special police 15945
officer employed by a municipal corporation at a municipal 15946
airport, or other municipal air navigation facility, that has 15947
scheduled operations, as defined in section 119.3 of Title 14 of 15948
the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and 15949
that is required to be under a security program and is governed by 15950
aviation security rules of the transportation security 15951
administration of the United States department of transportation 15952
as provided in Parts 1542. and 1544. of Title 49 of the Code of 15953
Federal Regulations, as amended; the house sergeant at arms if the 15954
house sergeant at arms has arrest authority pursuant to division 15955
(E)(1) of section 101.311 of the Revised Code; and an assistant 15956
house sergeant at arms; officer or employee of the bureau of 15957
criminal identification and investigation established pursuant to 15958

section 109.51 of the Revised Code who has been awarded a 15959
certificate by the executive director of the Ohio peace officer 15960
training commission attesting to the officer's or employee's 15961
satisfactory completion of an approved state, county, municipal, 15962
or department of natural resources peace officer basic training 15963
program and who is providing assistance upon request to a law 15964
enforcement officer or emergency assistance to a peace officer 15965
pursuant to section 109.54 or 109.541 of the Revised Code; and, 15966
for the purpose of arrests within those areas, for the purposes of 15967
Chapter 5503. of the Revised Code, and the filing of and service 15968
of process relating to those offenses witnessed or investigated by 15969
them, the superintendent and troopers of the state highway patrol. 15970

(C) "Prosecutor" includes the county prosecuting attorney and 15971
any assistant prosecutor designated to assist the county 15972
prosecuting attorney, and, in the case of courts inferior to 15973
courts of common pleas, includes the village solicitor, city 15974
director of law, or similar chief legal officer of a municipal 15975
corporation, any such officer's assistants, or any attorney 15976
designated by the prosecuting attorney of the county to appear for 15977
the prosecution of a given case. 15978

(D) "Offense," except where the context specifically 15979
indicates otherwise, includes felonies, misdemeanors, and 15980
violations of ordinances of municipal corporations and other 15981
public bodies authorized by law to adopt penal regulations. 15982

Sec. 2949.091. (A)(1) The court, in which any person is 15983
convicted of or pleads guilty to any offense other than a traffic 15984
offense that is not a moving violation, shall impose the sum of 15985
~~eleven~~ fifteen dollars as costs in the case in addition to any 15986
other court costs that the court is required by law to impose upon 15987
the offender. All such moneys collected during a month shall be 15988
transmitted on or before the twentieth day of the following month 15989

by the clerk of the court to the treasurer of state and deposited 15990
by the treasurer of state into the general revenue fund. The court 15991
shall not waive the payment of the additional ~~eleven~~ fifteen 15992
dollars court costs, unless the court determines that the offender 15993
is indigent and waives the payment of all court costs imposed upon 15994
the indigent offender. 15995

(2) The juvenile court, in which a child is found to be a 15996
delinquent child or a juvenile traffic offender for an act which, 15997
if committed by an adult, would be an offense other than a traffic 15998
offense that is not a moving violation, shall impose the sum of 15999
~~eleven~~ fifteen dollars as costs in the case in addition to any 16000
other court costs that the court is required or permitted by law 16001
to impose upon the delinquent child or juvenile traffic offender. 16002
All such moneys collected during a month shall be transmitted on 16003
or before the twentieth day of the following month by the clerk of 16004
the court to the treasurer of state and deposited by the treasurer 16005
of state into the general revenue fund. The ~~eleven~~ fifteen dollars 16006
court costs shall be collected in all cases unless the court 16007
determines the juvenile is indigent and waives the payment of all 16008
court costs, or enters an order on its journal stating that it has 16009
determined that the juvenile is indigent, that no other court 16010
costs are to be taxed in the case, and that the payment of the 16011
~~eleven~~ fifteen dollars court costs is waived. 16012

(B) Whenever a person is charged with any offense other than 16013
a traffic offense that is not a moving violation and posts bail, 16014
the court shall add to the amount of the bail the ~~eleven~~ fifteen 16015
dollars required to be paid by division (A)(1) of this section. 16016
The ~~eleven~~ fifteen dollars shall be retained by the clerk of the 16017
court until the person is convicted, pleads guilty, forfeits bail, 16018
is found not guilty, or has the charges dismissed. If the person 16019
is convicted, pleads guilty, or forfeits bail, the clerk shall 16020
transmit the ~~eleven~~ fifteen dollars on or before the twentieth day 16021

of the month following the month in which the person was 16022
convicted, pleaded guilty, or forfeited bail to the treasurer of 16023
state, who shall deposit it into the general revenue fund. If the 16024
person is found not guilty or the charges are dismissed, the clerk 16025
shall return the ~~eleven~~ fifteen dollars to the person. 16026

(C) No person shall be placed or held in a detention facility 16027
for failing to pay the additional ~~eleven~~ fifteen dollars court 16028
costs or bail that are required to be paid by this section. 16029

(D) As used in this section: 16030

(1) "Moving violation" and "bail" have the same meanings as 16031
in section 2743.70 of the Revised Code. 16032

(2) "Detention facility" has the same meaning as in section 16033
2921.01 of the Revised Code. 16034

Sec. 3111.04. (A) An action to determine the existence or 16035
nonexistence of the father and child relationship may be brought 16036
by the child or the child's personal representative, the child's 16037
mother or her personal representative, a man alleged or alleging 16038
himself to be the child's father, the child support enforcement 16039
agency of the county in which the child resides if the child's 16040
mother is a recipient of public assistance or of services under 16041
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 16042
U.S.C.A. 651, as amended, or the alleged father's personal 16043
representative. 16044

(B) An agreement does not bar an action under this section. 16045

(C) If an action under this section is brought before the 16046
birth of the child and if the action is contested, all 16047
proceedings, except service of process and the taking of 16048
depositions to perpetuate testimony, may be stayed until after the 16049
birth. 16050

(D) A recipient of public assistance or of services under 16051

Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, shall cooperate with the child support enforcement agency of the county in which a child resides to obtain an administrative determination pursuant to sections 3111.38 to 3111.54 of the Revised Code, or, if necessary, a court determination pursuant to sections 3111.01 to 3111.18 of the Revised Code, of the existence or nonexistence of a parent and child relationship between the father and the child. If the recipient fails to cooperate, the agency may commence an action to determine the existence or nonexistence of a parent and child relationship between the father and the child pursuant to sections 3111.01 to 3111.18 of the Revised Code.

(E) As used in this section, "public assistance" means medical assistance under Chapter 5111. of the Revised Code, assistance under Chapter 5107. of the Revised Code, ~~or~~ disability financial assistance under Chapter 5115. of the Revised Code, or disability medical assistance under Chapter 5115. of the Revised Code.

Sec. 3111.72. (A) The contract between the department of job and family services and a local hospital shall require all of the following:

~~(A)~~(1) That the hospital provide a staff person to meet with each unmarried mother who gave birth in or en route to the hospital within twenty-four hours of the birth or before the mother is released from the hospital;

~~(B)~~(2) That the staff person attempt to meet with the father of the unmarried mother's child if possible;

~~(C)~~(3) That the staff person explain to the unmarried mother and the father, if he is present, the benefit to the child of establishing a parent and child relationship between the father and the child and the various proper procedures for establishing a

parent and child relationship; 16083

~~(D)~~(4) That the staff person present to the unmarried mother 16084
and, if possible, the father, the pamphlet or statement regarding 16085
the rights and responsibilities of a natural parent that is 16086
prepared and provided by the department of job and family services 16087
pursuant to section 3111.32 of the Revised Code; 16088

~~(E)~~(5) That the staff person provide the mother and, if 16089
possible, the father, all forms and statements necessary to 16090
voluntarily establish a parent and child relationship, including, 16091
but not limited to, the acknowledgment of paternity affidavit 16092
prepared by the department of job and family services pursuant to 16093
section 3111.31 of the Revised Code; 16094

~~(F)~~(6) That the staff person, at the request of both the 16095
mother and father, help the mother and father complete any form or 16096
statement necessary to establish a parent and child relationship; 16097

~~(G)~~(7) That the hospital provide a notary public to notarize 16098
an acknowledgment of paternity affidavit signed by the mother and 16099
father; 16100

~~(H)~~(8) That the staff person present to an unmarried mother 16101
who is not participating in the Ohio works first program 16102
established under Chapter 5107. or receiving medical assistance 16103
under Chapter 5111. of the Revised Code an application for Title 16104
IV-D services; 16105

~~(I)~~(9) That the staff person forward any completed 16106
acknowledgment of paternity, no later than ten days after it is 16107
completed, to the office of child support in the department of job 16108
and family services; 16109

~~(J)~~(10) That the department of job and family services pay 16110
the hospital twenty dollars for every correctly signed and 16111
notarized acknowledgment of paternity affidavit from the hospital; 16112

(11) That, if an acknowledgment of paternity application is not completed and signed by the mother and father, at the request of either the mother or father and on completion by the mother or father of an application for services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended, including paternity determination, the hospital staff immediately collect genetic samples from the mother, father, and child at no cost to either parent;

(12) That the department pay the hospital thirty dollars for each sample collected pursuant to division (A)(11) of this section;

(13) That the department pay the cost of genetic tests of samples collected pursuant to division (A)(11) of this section.

(B) The director of job and family services shall adopt rules under Chapter 119. of the Revised Code to implement this section.

Sec. 3119.01. (A) As used in the Revised Code, "child support enforcement agency" means a child support enforcement agency designated under former section 2301.35 of the Revised Code prior to October 1, 1997, or a private or government entity designated as a child support enforcement agency under section 307.981 of the Revised Code.

(B) As used in this chapter and Chapters 3121., 3123., and 3125. of the Revised Code:

(1) "Administrative child support order" means any order issued by a child support enforcement agency for the support of a child pursuant to section 3109.19 or 3111.81 of the Revised Code or former section 3111.211 of the Revised Code, section 3111.21 of the Revised Code as that section existed prior to January 1, 1998, or section 3111.20 or 3111.22 of the Revised Code as those sections existed prior to March 22, 2001.

(2) "Child support order" means either a court child support order or an administrative child support order.	16143 16144
(3) "Obligee" means the person who is entitled to receive the support payments under a support order.	16145 16146
(4) "Obligor" means the person who is required to pay support under a support order.	16147 16148
(5) "Support order" means either an administrative child support order or a court support order.	16149 16150
(C) As used in this chapter:	16151
(1) "Combined gross income" means the combined gross income of both parents.	16152 16153
(2) "Court child support order" means any order issued by a court for the support of a child pursuant to Chapter 3115. of the Revised Code, section 2151.23, 2151.231, 2151.232, 2151.33, 2151.36, 2151.361, 2151.49, 3105.21, 3109.05, 3109.19, 3111.13, 3113.04, 3113.07, 3113.31, 3119.65, or 3119.70 of the Revised Code, or division (B) of former section 3113.21 of the Revised Code.	16154 16155 16156 16157 16158 16159 16160
(3) "Court support order" means either a court child support order or an order for the support of a spouse or former spouse issued pursuant to Chapter 3115. of the Revised Code, section 3105.18, 3105.65, or 3113.31 of the Revised Code, or division (B) of former section 3113.21 of the Revised Code.	16161 16162 16163 16164 16165
(4) "Extraordinary medical expenses" means any uninsured medical expenses incurred for a child during a calendar year that exceed one hundred dollars.	16166 16167 16168
(5) "Income" means either of the following:	16169
(a) For a parent who is employed to full capacity, the gross income of the parent;	16170 16171

(b) For a parent who is unemployed or underemployed, the sum 16172
of the gross income of the parent and any potential income of the 16173
parent. 16174

(6) "Insurer" means any person authorized under Title XXXIX 16175
of the Revised Code to engage in the business of insurance in this 16176
state, any health insuring corporation, and any legal entity that 16177
is self-insured and provides benefits to its employees or members. 16178

(7) "Gross income" means, except as excluded in division 16179
(C)(7) of this section, the total of all earned and unearned 16180
income from all sources during a calendar year, whether or not the 16181
income is taxable, and includes income from salaries, wages, 16182
overtime pay, and bonuses to the extent described in division (D) 16183
of section 3119.05 of the Revised Code; commissions; royalties; 16184
tips; rents; dividends; severance pay; pensions; interest; trust 16185
income; annuities; social security benefits, including retirement, 16186
disability, and survivor benefits that are not means-tested; 16187
workers' compensation benefits; unemployment insurance benefits; 16188
disability insurance benefits; benefits that are not means-tested 16189
and that are received by and in the possession of the veteran who 16190
is the beneficiary for any service-connected disability under a 16191
program or law administered by the United States department of 16192
veterans' affairs or veterans' administration; spousal support 16193
actually received; and all other sources of income. "Gross income" 16194
includes income of members of any branch of the United States 16195
armed services or national guard, including, amounts representing 16196
base pay, basic allowance for quarters, basic allowance for 16197
subsistence, supplemental subsistence allowance, cost of living 16198
adjustment, specialty pay, variable housing allowance, and pay for 16199
training or other types of required drills; self-generated income; 16200
and potential cash flow from any source. 16201

"Gross income" does not include any of the following: 16202

(a) Benefits received from means-tested government administered programs, including Ohio works first; prevention, retention, and contingency; means-tested veterans' benefits; supplemental security income; food stamps; disability <u>financial</u> assistance; or other assistance for which eligibility is determined on the basis of income or assets;	16203 16204 16205 16206 16207 16208
(b) Benefits for any service-connected disability under a program or law administered by the United States department of veterans' affairs or veterans' administration that are not means-tested, that have not been distributed to the veteran who is the beneficiary of the benefits, and that are in the possession of the United States department of veterans' affairs or veterans' administration;	16209 16210 16211 16212 16213 16214 16215
(c) Child support received for children who were not born or adopted during the marriage at issue;	16216 16217
(d) Amounts paid for mandatory deductions from wages such as union dues but not taxes, social security, or retirement in lieu of social security;	16218 16219 16220
(e) Nonrecurring or unsustainable income or cash flow items;	16221
(f) Adoption assistance and foster care maintenance payments made pursuant to Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as amended.	16222 16223 16224
(8) "Nonrecurring or unsustainable income or cash flow item" means an income or cash flow item the parent receives in any year or for any number of years not to exceed three years that the parent does not expect to continue to receive on a regular basis. "Nonrecurring or unsustainable income or cash flow item" does not include a lottery prize award that is not paid in a lump sum or any other item of income or cash flow that the parent receives or expects to receive for each year for a period of more than three years or that the parent receives and invests or otherwise uses to	16225 16226 16227 16228 16229 16230 16231 16232 16233

produce income or cash flow for a period of more than three years. 16234

(9)(a) "Ordinary and necessary expenses incurred in 16235
generating gross receipts" means actual cash items expended by the 16236
parent or the parent's business and includes depreciation expenses 16237
of business equipment as shown on the books of a business entity. 16238

(b) Except as specifically included in "ordinary and 16239
necessary expenses incurred in generating gross receipts" by 16240
division (C)(9)(a) of this section, "ordinary and necessary 16241
expenses incurred in generating gross receipts" does not include 16242
depreciation expenses and other noncash items that are allowed as 16243
deductions on any federal tax return of the parent or the parent's 16244
business. 16245

(10) "Personal earnings" means compensation paid or payable 16246
for personal services, however denominated, and includes wages, 16247
salary, commissions, bonuses, draws against commissions, profit 16248
sharing, vacation pay, or any other compensation. 16249

(11) "Potential income" means both of the following for a 16250
parent who the court pursuant to a court support order, or a child 16251
support enforcement agency pursuant to an administrative child 16252
support order, determines is voluntarily unemployed or voluntarily 16253
underemployed: 16254

(a) Imputed income that the court or agency determines the 16255
parent would have earned if fully employed as determined from the 16256
following criteria: 16257

(i) The parent's prior employment experience; 16258

(ii) The parent's education; 16259

(iii) The parent's physical and mental disabilities, if any; 16260

(iv) The availability of employment in the geographic area in 16261
which the parent resides; 16262

(v) The prevailing wage and salary levels in the geographic 16263

area in which the parent resides;	16264
(vi) The parent's special skills and training;	16265
(vii) Whether there is evidence that the parent has the ability to earn the imputed income;	16266 16267
(viii) The age and special needs of the child for whom child support is being calculated under this section;	16268 16269
(ix) The parent's increased earning capacity because of experience;	16270 16271
(x) Any other relevant factor.	16272
(b) Imputed income from any nonincome-producing assets of a parent, as determined from the local passbook savings rate or another appropriate rate as determined by the court or agency, not to exceed the rate of interest specified in division (A) of section 1343.03 of the Revised Code, if the income is significant.	16273 16274 16275 16276 16277
(12) "Schedule" means the basic child support schedule set forth in section 3119.021 of the Revised Code.	16278 16279
(13) "Self-generated income" means gross receipts received by a parent from self-employment, proprietorship of a business, joint ownership of a partnership or closely held corporation, and rents minus ordinary and necessary expenses incurred by the parent in generating the gross receipts. "Self-generated income" includes expense reimbursements or in-kind payments received by a parent from self-employment, the operation of a business, or rents, including company cars, free housing, reimbursed meals, and other benefits, if the reimbursements are significant and reduce personal living expenses.	16280 16281 16282 16283 16284 16285 16286 16287 16288 16289
(14) "Split parental rights and responsibilities" means a situation in which there is more than one child who is the subject of an allocation of parental rights and responsibilities and each parent is the residential parent and legal custodian of at least	16290 16291 16292 16293

one of those children. 16294

(15) "Worksheet" means the applicable worksheet that is used 16295
to calculate a parent's child support obligation as set forth in 16296
sections 3119.022 and 3119.023 of the Revised Code. 16297

Sec. 3123.952. A child support enforcement agency may submit 16298
the name of a delinquent obligor to the office of child support 16299
for inclusion on a poster only if all of the following apply: 16300

(A) The obligor is subject to a support order and there has 16301
been an attempt to enforce the order through a public notice, a 16302
wage withholding order, a lien on property, a financial 16303
institution deduction order, or other court-ordered procedures. 16304

(B) The department of job and family services reviewed the 16305
obligor's records and confirms the child support enforcement 16306
agency's finding that the obligor's name and photograph may be 16307
submitted to be displayed on a poster. 16308

(C) The agency does not know or is unable to verify the 16309
obligor's whereabouts. 16310

(D) The obligor is not a participant in Ohio works first or 16311
the prevention, retention, and contingency program or a recipient 16312
of disability financial assistance, supplemental security income, 16313
or food stamps. 16314

(E) The child support enforcement agency does not have 16315
evidence that the obligor has filed for protection under the 16316
federal Bankruptcy Code, 11 U.S.C.A. 101, as amended. 16317

(F) The obligee gave written authorization to the agency to 16318
display the obligor on a poster. 16319

(G) A legal representative of the agency and a child support 16320
enforcement administrator reviewed the case. 16321

(H) The agency is able to submit to the department a 16322

description and photograph of the obligor, a statement of the possible locations of the obligor, and any other information required by the department.

Sec. 3123.97. (A) As used in this section:

(1) "Default" has the same meaning as in section 3121.01 of the Revised Code.

(2) "Claimant" means an individual that brings a claim against an insurance company under a policy of liability or life insurance as a beneficiary of the policy. For this purpose, an "individual" includes an individual's estate.

(3) "Insurance company" means any person authorized to engage in the business of insurance in this state under Title XXXIX of the Revised Code.

(B) A claimant shall provide the claimant's date of birth, social security number, and current address to the insurance company upon the insurance company's request. The insurance company may inform the claimant that the information request is being made in accordance with this section, for the purpose of assisting the department of job and family services in enforcing child support orders. An insurance company is prohibited from paying a claimant who refuses to provide the requested information. An insurance company that does not pay a claimant due to the claimant's refusal to provide the requested information is exempt from suit and immune from liability under the Revised Code and in any common law action in law or equity.

(C) Every month, for purposes of the information exchange required by this section, the department of job and family services shall provide all insurance companies writing life and liability policies of insurance with a list of all child support obligors against whom a final and enforceable determination of

default has been made under sections 3123.01 to 3123.07 of the 16353
Revised Code. The list provided by the department of job and 16354
family services also shall contain the addresses, dates of birth, 16355
and social security numbers of the obligors, as well as the amount 16356
of each obligor's default. 16357

(D) Not fewer than ten days prior to making any nonrecurring 16358
payment to a claimant that is equal to or in excess of five 16359
hundred dollars, insurance companies shall attempt to match the 16360
claimant's name, date of birth, social security number, and 16361
current address with the list of obligors and related information 16362
provided by the department of job and family services in order to 16363
determine whether the claimant may be a child support obligor in 16364
default. If the claimant is a child support obligor in default, 16365
the insurance company shall hold the payment and advise the 16366
department of job and family services of the claimant's name, 16367
address, date of birth, and social security number. 16368

(E)(1) Except as provided in division (E)(2) of this section, 16369
the insurance company holding a payment pursuant to division (D) 16370
of this section shall divert the payment to the department of job 16371
and family services upon receiving a notification from the 16372
department of the amount of the claimant's default. The department 16373
of job and family services shall distribute the diverted payment 16374
in accordance with state and federal laws. 16375

(2) If the payment held is greater than the default amount, 16376
only an amount equal to the default amount shall be diverted to 16377
the department of job and family services. Any remaining money 16378
then shall be paid out according to the insurance policy. 16379

(F) This section does not apply to that portion of a claim 16380
resulting in payments being issued to a third party on behalf of 16381
the claimant when there is documentation showing that the third 16382
party has provided or agreed to provide the claimant with a 16383
benefit or service related to the claim, including, but not 16384

limited to, the services of an attorney or a physician, or to any 16385
portion of a claim based on damage to or the loss of real 16386
property. 16387

(G) No insurance company that is required to exchange 16388
information with and to divert payments to the department of job 16389
and family services under this section shall fail to cooperate 16390
with the department, or with any child support enforcement agency, 16391
when requested to provide information or to divert a payment. Any 16392
insurance company that fails to cooperate is liable to the 16393
department of job and family services for the default amount, up 16394
to the amount of the claim payment available. 16395

(H) Information provided by the department of job and family 16396
services to an insurance company under this section may only be 16397
used for the purpose of assisting the department in collecting 16398
past-due child support. Any individual or insurance company that 16399
uses the information for any other purpose shall pay a fine of 16400
five hundred dollars per violation to the department of job and 16401
family services. The fines are to be considered program income by 16402
the department of job and family services. 16403

(I) The department of job and family services may enter into 16404
contracts with private third-party vendors in order to carry out 16405
the information exchange with insurance companies required by this 16406
section. 16407

(J) The department of job and family services shall adopt 16408
rules in accordance with Chapter 119. of the Revised Code to carry 16409
out the purposes of this section. 16410

Sec. 3125.12. Each child support enforcement agency shall 16411
enter into a plan of cooperation with the board of county 16412
commissioners under section 307.983 of the Revised Code and comply 16413
with ~~the partnership~~ each fiscal agreement the board enters into 16414
under section 307.98 and contracts the board enters into under 16415

sections 307.981 and 307.982 of the Revised Code that affect the 16416
agency. 16417

Sec. 3125.25. The director of job and family services shall 16418
adopt rules ~~under Chapter 119. of the Revised Code~~ governing the 16419
operation of support enforcement by child support enforcement 16420
agencies. The rules shall include, but shall not be limited to, 16421
provisions relating to plans of cooperation between the agencies 16422
and boards of county commissioners entered into under section 16423
3125.12 of the Revised Code, provisions concerning fiscal 16424
agreements that boards enter into under section 307.98 of the 16425
Revised Code, requirements for public hearings by the agencies, 16426
and provisions for appeals of agency decisions under procedures 16427
established by the director. 16428

Rules concerning fiscal agreements shall be adopted in 16429
accordance with section 111.15 of the Revised Code as if they were 16430
internal management rules. All other rules shall be adopted in 16431
accordance with Chapter 119. of the Revised Code. 16432

Sec. 3301.31. As used in this section and sections 3301.32 to 16433
3301.37 of the Revised Code: 16434

(A) "Eligible individual" means an individual eligible for 16435
Title IV-A services. 16436

(B) "Head start agency" means any of the following: 16437

(1) An entity in this state that has been approved to be an 16438
agency for purposes of the "Head Start Act," 95 Stat. 489 (1981), 16439
42 U.S.C. 9831, as amended; 16440

(2) A Title IV-A head start agency; 16441

(3) A Title IV-A head start plus agency. 16442

(C) "Head start program" has the same meaning as in section 16443
5104.01 of the Revised Code. 16444

(D) "Title IV-A services" means benefits and services that 16445
are allowable under Title IV-A of the "Social Security Act," as 16446
specified in 42 U.S.C.A 604(a), except that they shall not be 16447
benefits and services included in the term "assistance" as defined 16448
in 45 C.F.R. 260.31(a) and shall be benefits and services that are 16449
excluded from the definition of the term "assistance" under 45 16450
C.F.R. 260.31(b). 16451

(E) "Title IV-A head start agency" means an agency receiving 16452
funds to operate a head start program as prescribed in section 16453
3301.34 of the Revised Code. 16454

(F) "Title IV-A head start plus agency" means an agency 16455
receiving funds to operate a head start program as prescribed in 16456
section 3301.35 of the Revised Code. 16457

Sec. 3301.33. (A) There is hereby established the Title IV-A 16458
head start program to provide head start program services to 16459
eligible individuals. 16460

(B) There is hereby established the Title IV-A head start 16461
plus program to provide year-long head start program services and 16462
child care services to eligible individuals. 16463

(C) The programs established under divisions (A) and (B) of 16464
this section shall be administered by the department of education 16465
in accordance with an interagency agreement entered into with the 16466
department of job and family services under section 5101.801 of 16467
the Revised Code. The programs shall provide Title IV-A services 16468
to eligible individuals who meet eligibility requirements 16469
established in rules and administrative orders adopted by the 16470
department of job and family services under Chapter 5104. of the 16471
Revised Code. The department of job and family services and the 16472
department of education jointly shall adopt policies and 16473
procedures establishing program requirements for eligibility, 16474

services, program administration, fiscal accountability, and other 16475
criteria necessary to comply with the provisions of Title IV-A of 16476
the "Social Security Act," 110 Stat. 2113, 42 U.S.C. 601 (1996), 16477
as amended. 16478

The department of education shall be responsible for 16479
approving all Title IV-A head start agencies and Title IV-A head 16480
start plus agencies for provision of services under the programs 16481
established under this section. An agency that is not approved by 16482
the department shall not be reimbursed for the cost of providing 16483
services under the programs. 16484

Sec. 3301.34. In administering the Title IV-A head start 16485
program established under division (A) of section 3301.33 of the 16486
Revised Code, the department of education shall enter into a 16487
contract with each Title IV-A head start agency establishing the 16488
terms and conditions applicable to the provision of Title IV-A 16489
services for eligible individuals. The contracts shall specify the 16490
respective duties of the Title IV-A head start agencies and the 16491
department of education, reporting requirements, eligibility 16492
requirements, procedures for obtaining verification of eligibility 16493
for Title IV-A services from a county department of job and family 16494
services, reimbursement methodology, audit requirements, and other 16495
provisions determined necessary. The department of education shall 16496
reimburse the Title IV-A head start agencies for Title IV-A 16497
services provided to eligible individuals in accordance with the 16498
terms of the contract, policies and procedures adopted by the 16499
department of education and the department of job and family 16500
services under section 3301.33 of the Revised Code, and the 16501
interagency agreement entered into by the departments. 16502

The department of education shall ensure that all 16503
reimbursements paid to a Title IV-A head start agency are only for 16504
Title IV-A services. 16505

The department of education shall ensure that all 16506
reimbursements paid to a Title IV-A head start agency are for only 16507
those individuals for whom the Title IV-A head start agency has 16508
obtained verification of eligibility for Title IV-A services from 16509
the appropriate county department of job and family services, as 16510
provided for in section 3301.36 of the Revised Code. 16511

Sec. 3301.35. (A) In administering the Title IV-A head start 16512
plus program established under division (B) of section 3301.33, 16513
the department of education shall enter into a contract with each 16514
county department of job and family services to administer the 16515
program within its respective county. The county departments shall 16516
verify the eligibility for Title IV-A services of individuals and 16517
reimburse Title IV-A head start plus agencies for Title IV-A 16518
services provided to eligible individuals under the program. The 16519
department of education shall reimburse the county departments for 16520
allowable payments made to Title IV-A head start plus agencies. 16521

The contract entered into by the department of education and 16522
each county department shall specify the duties of the county 16523
department and the department of education, reporting 16524
requirements, reimbursement methodology, audit requirements, and 16525
other provisions determined necessary. The department of education 16526
shall reimburse each county department for reimbursements the 16527
county department pays to Title IV-A head start plus agencies for 16528
Title IV-A services in accordance with the terms of the contract 16529
and with policies and procedures adopted by the department of 16530
education and the state department of job and family services 16531
under section 3301.33 of the Revised Code. 16532

Each county department shall deposit all reimbursements 16533
received under this section into the county public assistance 16534
fund. 16535

(B) Each county department shall administer the program 16536

within its respective county in accordance with requirements 16537
established by the state department of job and family services 16538
under section 5101.801 of the Revised Code. The county department 16539
shall ensure that all reimbursements paid to a Title IV-A head 16540
start plus agency are for only Title IV-A services. 16541

The administration of the Title IV-A head start plus program 16542
by the county department shall include all of the following: 16543

(1) Determining eligibility of individuals and establishing 16544
co-payment requirements in accordance with rules adopted by the 16545
state department of job and family services; 16546

(2) Ensuring that any reimbursements paid by the county 16547
department to a Title IV-A head start plus agency comply with 16548
requirements of Title IV-A of the "Social Security Act," 110 Stat. 16549
2113, 42 U.S.C. 601 (1996), as amended, including eligibility of 16550
individuals, reporting requirements, allowable benefits and 16551
services, use of funds, and audit requirements, as specified in 16552
state and federal laws and regulations, United States office of 16553
management and budget circulars, and the Title IV-A state plan; 16554

(3) Monitoring each Title IV-A head start plus agency that 16555
receives funds from the county department. The county department 16556
is responsible for assuring that all Title IV-A funds are used 16557
solely for purposes allowable under federal regulations, section 16558
5101.801 of the Revised Code, and the Title IV-A state plan and 16559
shall take prompt action to recover funds that are not expended 16560
accordingly. 16561

(C) Each county department shall enter into contracts with 16562
Title IV-A head start plus agencies to provide Title IV-A services 16563
to eligible individuals who meet eligibility requirements 16564
established in rules adopted by the department of job and family 16565
services. 16566

The county department shall enter into contracts with only 16567

those agencies that have been approved by the department of 16568
education as a Title IV-A head start plus agency and that have 16569
been licensed in accordance with section 3301.37 of the Revised 16570
Code. Each contract entered into by a county department under this 16571
division shall specify all of the following: 16572

(1) Requirements for financial management and accountability 16573
for the funds, including the prompt repayment of funds that were 16574
not spent in accordance with these requirements; 16575

(2) Requirements applicable to the allowable use of and 16576
accountability for Title IV-A funds; 16577

(3) Requirements for access, inspection, and examination of 16578
the agency's financial and program records by the county 16579
department, the state department of job and family services, the 16580
department of education, the auditor of state, and any other state 16581
or federal agency with authority to inspect and examine such 16582
records; 16583

(4) Audit requirements applicable to funds received under the 16584
contract; 16585

(5) Requirements for the prompt repayment to the county 16586
department of any funds that are the subject of any federal or 16587
state adverse audit findings; 16588

(6) Procedures for adjustments and reconciliation of 16589
overpayments, underpayments, advanced funds, or other accounting 16590
procedures required by the county department, state department of 16591
job and family services, or department of education; 16592

(7) Reimbursement rates; 16593

(8) Billing dates, payment dates, and other reimbursement 16594
procedures established by the county department; 16595

(9) Reporting requirements by and for the county department, 16596
the state department of job and family services, and the 16597

department of education; 16598

(10) Provisions for the county department to withhold 16599
reimbursement, or to suspend, modify, or terminate the contract if 16600
the department of education suspends or removes the agency from 16601
the list of approved Title IV-A head start plus agencies or if the 16602
state department of job and family services denies or revokes a 16603
license for the agency. 16604

Sec. 3301.36. At the request of a Title IV-A head start 16605
agency or Title IV-A head start plus agency, each county 16606
department of job and family services shall provide verification 16607
of eligibility for Title IV-A services for individuals seeking 16608
Title IV-A services from the agency. 16609

Sec. 3301.37. (A) Each entity operating a head start program 16610
shall be licensed by the department of job and family services in 16611
accordance with Chapter 5104. of the Revised Code. 16612

(B) Notwithstanding division (A) of this section, any current 16613
license issued under section 3301.58 of the Revised Code by the 16614
department of education to an entity operating a head start 16615
program prior to the effective date of this section is hereby 16616
deemed to be a license issued by the department of job and family 16617
services under Chapter 5104. of the Revised Code. The expiration 16618
date of the license shall be the earlier of the expiration date 16619
specified in the license as issued under section 3301.58 of the 16620
Revised Code or July 1, 2005. In order to continue operation of 16621
its head start program after that expiration date, the entity 16622
shall obtain a license as prescribed in division (A) of this 16623
section. 16624

Sec. ~~3301.33~~ 3301.40. (A) As used in this section, "adult 16625
education" has the meaning as established under the "adult 16626
education act," 102 Stat. 302 (1988), 20 U.S.C. 1201a(2), as 16627

amended. 16628

(B) Beginning July 1, 1996, the department of education may 16629
distribute state funds to organizations that qualify for federal 16630
funds under the "Adult Education Act," 102 Stat. 302 (1988), 20 16631
1201 to 1213d, as amended. The funds shall be used by qualifying 16632
organizations to provide adult education services. State funds 16633
distributed pursuant to this section shall be distributed in 16634
accordance with the rules adopted by the state board of education 16635
pursuant to this section. 16636

Each organization that receives funds under this section 16637
shall file program performance reports with the department. The 16638
reports shall be filed at times required by state board of 16639
education rule and contain assessments of individual students as 16640
they enter, progress through, and exit the adult education 16641
program; records regarding individual student program 16642
participation time; reports of individual student retention rates; 16643
and any other information required by rule. 16644

(C) The state board of education shall adopt rules for the 16645
distribution of funds under this section. The rules shall include 16646
the following: 16647

(1) Requirements for program performance reports. 16648

(2) Indicators of adult education program quality, including 16649
indicators of learner achievement, program environment, program 16650
planning, curriculum and instruction, staff development, support 16651
services, and recruitment and retention. 16652

(3) A formula for the distribution of funds under this 16653
section. The formula shall include as a factor an organization's 16654
quantifiable success in meeting the indicators of program quality 16655
established pursuant to division (C)(2) of this section. 16656

(4) Standards and procedures for reducing or discontinuing 16657
funding to organizations that fail to meet the requirements of 16658

this section.	16659
(5) Any other requirements or standards considered appropriate by the board.	16660 16661
Sec. 3301.52. As used in sections 3301.52 to 3301.59 of the Revised Code:	16662 16663
(A) "Preschool program" means either of the following:	16664
(1) A child day-care program for preschool children that is operated by a school district board of education, <u>or</u> an eligible nonpublic school, a head start grantee, or a head start delegate agency.	16665 16666 16667 16668
(2) A child day-care program for preschool children age three or older that is operated by a county MR/DD board.	16669 16670
(B) "Preschool child" or "child" means a child who has not entered kindergarten and is not of compulsory school age.	16671 16672
(C) "Parent, guardian, or custodian" means the person or government agency that is or will be responsible for a child's school attendance under section 3321.01 of the Revised Code.	16673 16674 16675
(D) "Superintendent" means the superintendent of a school district or the chief administrative officer of an eligible nonpublic school.	16676 16677 16678
(E) "Director" means the director, head teacher, elementary principal, or site administrator who is the individual on site and responsible for supervision of a preschool program.	16679 16680 16681
(F) "Preschool staff member" means a preschool employee whose primary responsibility is care, teaching, or supervision of preschool children.	16682 16683 16684
(G) "Nonteaching employee" means a preschool program or school child program employee whose primary responsibilities are duties other than care, teaching, and supervision of preschool	16685 16686 16687

children or school children. 16688

(H) "Eligible nonpublic school" means a nonpublic school 16689
chartered as described in division (B)(8) of section 5104.02 of 16690
the Revised Code or chartered by the state board of education for 16691
any combination of grades one through twelve, regardless of 16692
whether it also offers kindergarten. 16693

(I) "County MR/DD board" means a county board of mental 16694
retardation and developmental disabilities. 16695

(J) "School child program" means a child day-care program for 16696
only school children that is operated by a school district board 16697
of education, county MR/DD board, or eligible nonpublic school. 16698

(K) "School child" and "child day-care" have the same 16699
meanings as in section 5104.01 of the Revised Code. 16700

(L) "School child program staff member" means an employee 16701
whose primary responsibility is the care, teaching, or supervision 16702
of children in a school child program. 16703

~~(M) "Head start" means a program operated in accordance with 16704
subchapter II of the "Community Economic Development Act," 95 16705
Stat. 489 (1981), 42 U.S.C. 9831, and amendments thereto. 16706~~

Sec. 3301.53. (A) Not later than July 1, 1988, the state 16707
board of education, in consultation with the director of job and 16708
family services, shall formulate and prescribe by rule adopted 16709
under Chapter 119. of the Revised Code minimum standards to be 16710
applied to preschool programs operated by school district boards 16711
of education, county MR/DD boards, or eligible nonpublic schools, 16712
~~head start grantees, and head start delegate agencies.~~ The rules 16713
shall include the following: 16714

(1) Standards ensuring that the preschool program is located 16715
in a safe and convenient facility that accommodates the enrollment 16716
of the program, is of the quality to support the growth and 16717

development of the children according to the program objectives, 16718
and meets the requirements of section 3301.55 of the Revised Code; 16719

(2) Standards ensuring that supervision, discipline, and 16720
programs will be administered according to established objectives 16721
and procedures; 16722

(3) Standards ensuring that preschool staff members and 16723
nonteaching employees are recruited, employed, assigned, 16724
evaluated, and provided inservice education without discrimination 16725
on the basis of age, color, national origin, race, or sex; and 16726
that preschool staff members and nonteaching employees are 16727
assigned responsibilities in accordance with written position 16728
descriptions commensurate with their training and experience; 16729

(4) A requirement that boards of education intending to 16730
establish a preschool program on or after March 17, 1989, 16731
demonstrate a need for a preschool program that is not being met 16732
by any existing program providing child day-care, prior to 16733
establishing the program; 16734

(5) Requirements that children participating in preschool 16735
programs have been immunized to the extent considered appropriate 16736
by the state board to prevent the spread of communicable disease; 16737

(6) Requirements that the parents of preschool children 16738
complete the emergency medical authorization form specified in 16739
section 3313.712 of the Revised Code. 16740

(B) The state board of education in consultation with the 16741
director of job and family services shall ensure that the rules 16742
adopted by the state board under sections 3301.52 to 3301.58 of 16743
the Revised Code are consistent with and meet or exceed the 16744
requirements of Chapter 5104. of the Revised Code with regard to 16745
child day-care centers. The state board and the director of job 16746
and family services shall review all such rules at least once 16747
every five years. 16748

(C) On or before January 1, 1992, the state board of education, in consultation with the director of job and family services, shall adopt rules for school child programs that are consistent with and meet or exceed the requirements of the rules adopted for school child day-care centers under Chapter 5104. of the Revised Code.

Sec. 3301.54. (A)(1) Each preschool program shall be directed and supervised by a director, a head teacher, an elementary principal, or a site administrator who is on site and responsible for supervision of the program. Except as otherwise provided in division (A)(2), (3), or (4) of this section, this person shall hold a valid educator license designated as appropriate for teaching or being an administrator in a preschool setting issued pursuant to section 3319.22 of the Revised Code and have completed at least four courses in child development or early childhood education from an accredited college, university, or technical college.

(2) If the person was employed prior to July 1, 1988, by a school district board of education or an eligible nonpublic school to direct a preschool program, the person shall be considered to meet the requirements of this section if the person holds a valid kindergarten-primary certificate described under former division (A) of section 3319.22 of the Revised Code as it existed on January 1, 1996.

(3) If the person is employed to direct a preschool program operated by an eligible, nontax-supported, nonpublic school, the person shall be considered to meet the requirements of this section if the person holds a valid teaching certificate issued in accordance with section 3301.071 of the Revised Code.

~~(4) If the person is a site administrator for a head start grantee or head start delegate agency, the person shall be~~

~~considered to meet the requirements of this section if the person provides evidence that the person has attained at least a high school diploma or certification of high school equivalency issued by the state board of education or a comparable agency of another state, and that the person meets at least one of the following requirements:~~

~~(a) Two years of experience working as a child care staff member in a child day care center or preschool program and at least four courses in child development or early childhood education from an accredited college, university, or technical college, except that a person who has two years of experience working as a child care staff member in a particular day care center or preschool program and who has been promoted to or designated director shall have one year from the time the person was promoted or designated to complete the required four courses;~~

~~(b) Two years of training in an accredited college, university, or technical college that includes at least four courses in child development or early childhood education;~~

~~(c) A child development associate credential issued by the national child development associate credentialing commission;~~

~~(d) An associate or higher degree in child development or early childhood education from an accredited college, university, or technical college.~~

(B) Each preschool staff member shall be at least eighteen years of age and have a high school diploma or a certification of high school equivalency issued by the state board of education or a comparable agency of another state, except that a staff member may be less than eighteen years of age if the staff member is a graduate of a two-year vocational child-care training program approved by the state board of education, or is a student enrolled in the second year of such a program that leads to high school

graduation, provided that the student performs duties in the 16811
preschool program under the continuous supervision of an 16812
experienced preschool staff member and receives periodic 16813
supervision from the vocational child-care training program 16814
teacher-coordinator in the student's high school. 16815

A preschool staff member shall annually complete fifteen 16816
hours of inservice training in child development or early 16817
childhood education, child abuse recognition and prevention, and 16818
first aid, and in the prevention, recognition, and management of 16819
communicable diseases, until a total of forty-five hours has been 16820
completed, unless the staff member holds an associate or higher 16821
degree in child development or early childhood education from an 16822
accredited college, university, or technical college, or any type 16823
of educator license designated as appropriate for teaching in an 16824
associate teaching position in a preschool setting issued by the 16825
state board of education pursuant to section 3319.22 of the 16826
Revised Code. 16827

Sec. 3301.55. (A) A school district, county MR/DD board, or 16828
eligible nonpublic school, ~~head start grantee, or head start~~ 16829
~~delegate agency~~ operating a preschool program shall house the 16830
program in buildings that meet the following requirements: 16831

(1) The building is operated by the district, county MR/DD 16832
board, or eligible nonpublic school, ~~head start grantee, or head~~ 16833
~~start delegate agency~~ and has been approved by the division of 16834
industrial compliance in the department of commerce or a certified 16835
municipal, township, or county building department for the purpose 16836
of operating a program for preschool children. Any such structure 16837
shall be constructed, equipped, repaired, altered, and maintained 16838
in accordance with applicable provisions of Chapters 3781. and 16839
3791. and with rules adopted by the board of building standards 16840
under Chapter 3781. of the Revised Code for the safety and 16841

sanitation of structures erected for this purpose. 16842

(2) The building is in compliance with fire and safety laws 16843
and regulations as evidenced by reports of annual school fire and 16844
safety inspections as conducted by appropriate local authorities. 16845

(3) The school is in compliance with rules established by the 16846
state board of education regarding school food services. 16847

(4) The facility includes not less than thirty-five square 16848
feet of indoor space for each child in the program. Safe play 16849
space, including both indoor and outdoor play space, totaling not 16850
less than sixty square feet for each child using the space at any 16851
one time, shall be regularly available and scheduled for use. 16852

(5) First aid facilities and space for temporary placement or 16853
isolation of injured or ill children are provided. 16854

(B) Each school district, county MR/DD board, or eligible 16855
~~nonpublic school, head start grantee, or head start delegate~~ 16856
~~agency~~ that operates, or proposes to operate, a preschool program 16857
shall submit a building plan including all information specified 16858
by the state board of education to the board not later than the 16859
first day of September of the school year in which the program is 16860
to be initiated. The board shall determine whether the buildings 16861
meet the requirements of this section and section 3301.53 of the 16862
Revised Code, and notify the superintendent of its determination. 16863
If the board determines, on the basis of the building plan or any 16864
other information, that the buildings do not meet those 16865
requirements, it shall cause the buildings to be inspected by the 16866
department of education. The department shall make a report to the 16867
superintendent specifying any aspects of the building that are not 16868
in compliance with the requirements of this section and section 16869
3301.53 of the Revised Code and the time period that will be 16870
allowed the district, county MR/DD board, or school, ~~grantee, or~~ 16871
~~agency~~ to meet the requirements. 16872

Sec. 3301.57. (A) For the purpose of improving programs, 16873
facilities, and implementation of the standards promulgated by the 16874
state board of education under section 3301.53 of the Revised 16875
Code, the state department of education shall provide consultation 16876
and technical assistance to school districts, county MR/DD boards, 16877
and eligible nonpublic schools, ~~head start grantees, and head~~ 16878
~~start delegate agencies~~ operating preschool programs or school 16879
child programs, and inservice training to preschool staff members, 16880
school child program staff members, and nonteaching employees. 16881

(B) The department and the school district board of 16882
education, county MR/DD board, or eligible nonpublic school, ~~head~~ 16883
~~start grantee, or head start delegate agency~~ shall jointly monitor 16884
each preschool program and each school child program. 16885

If the program receives any grant or other funding from the 16886
state or federal government, the department annually shall monitor 16887
all reports on attendance, financial support, and expenditures 16888
according to provisions for use of the funds. 16889

(C) ~~The department of job and family services and the~~ 16890
~~department of education shall enter into a contract pursuant to~~ 16891
~~which the department of education inspects preschool programs and~~ 16892
~~school child programs in accordance with sections 3301.52 to~~ 16893
~~3301.59 of the Revised Code, the rules adopted under those~~ 16894
~~sections, and any applicable procedures in Chapter 5104. of the~~ 16895
~~Revised Code and investigates any complaints filed pursuant to~~ 16896
~~those sections or rules. The contract shall require the department~~ 16897
~~of job and family services to pay the department of education for~~ 16898
~~conducting the inspections and investigations an amount equal to~~ 16899
~~the amount that the department of job and family services would~~ 16900
~~expend conducting the same number of inspections and~~ 16901
~~investigations with its employees under Chapter 5104. of the~~ 16902
~~Revised Code.~~ 16903

~~(D)~~ The department of education, at least twice during every twelve-month period of operation of a preschool program or a licensed school child program, shall inspect the program and provide a written inspection report to the superintendent of the school district, county MR/DD board, eligible nonpublic school, head start grantee, or head start delegate agency. At least one inspection shall be unannounced, and all inspections may be unannounced. No person shall interfere with any inspection conducted pursuant to this division or to the rules adopted pursuant to sections 3301.52 to 3301.59 of the Revised Code.

Upon receipt of any complaint that a preschool program or a licensed school child program is out of compliance with the requirements in sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections, the department shall investigate and may inspect the program.

~~(E)~~(D) If a preschool program or a licensed school child program is determined to be out of compliance with the requirements of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections, the department of education shall notify the appropriate superintendent, county MR/DD board, eligible nonpublic school, head start grantee, or head start delegate agency in writing regarding the nature of the violation, what must be done to correct the violation, and by what date the correction must be made. If the correction is not made by the date established by the department, it may commence action under Chapter 119. of the Revised Code to close the program or to revoke the license of the program. If a program does not comply with an order to cease operation issued in accordance with Chapter 119. of the Revised Code, the department shall notify the attorney general, the prosecuting attorney of the county in which the program is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which

the program is located that the program is operating in violation 16936
of sections 3301.52 to 3301.59 of the Revised Code or the rules 16937
adopted under those sections and in violation of an order to cease 16938
operation issued in accordance with Chapter 119. of the Revised 16939
Code. Upon receipt of the notification, the attorney general, 16940
prosecuting attorney, city attorney, village solicitor, or other 16941
chief legal officer shall file a complaint in the court of common 16942
pleas of the county in which the program is located requesting the 16943
court to issue an order enjoining the program from operating. The 16944
court shall grant the requested injunctive relief upon a showing 16945
that the program named in the complaint is operating in violation 16946
of sections 3301.52 to 3301.59 of the Revised Code or the rules 16947
adopted under those sections and in violation of an order to cease 16948
operation issued in accordance with Chapter 119. of the Revised 16949
Code. 16950

~~(F)~~(E) The department of education shall prepare an annual 16951
report on inspections conducted under this section. The report 16952
shall include the number of inspections conducted, the number and 16953
types of violations found, and the steps taken to address the 16954
violations. The department shall file the report with the 16955
governor, the president and minority leader of the senate, and the 16956
speaker and minority leader of the house of representatives on or 16957
before the first day of January of each year, beginning in 1999. 16958

Sec. 3301.58. (A) The department of education is responsible 16959
for the licensing of preschool programs and school child programs 16960
and for the enforcement of sections 3301.52 to 3301.59 of the 16961
Revised Code and of any rules adopted under those sections. No 16962
school district board of education, county MR/DD board, or 16963
~~eligible nonpublic school, head start grantee, or head start~~ 16964
~~delegate agency~~ shall operate, establish, manage, conduct, or 16965
maintain a preschool program without a license issued under this 16966
section. A school district board of education, county MR/DD board, 16967

or eligible nonpublic school may obtain a license under this 16968
section for a school child program. The school district board of 16969
education, county MR/DD board, or eligible nonpublic school, ~~head~~ 16970
~~start grantee, or head start delegate agency~~ shall post the 16971
current license for each preschool program and licensed school 16972
child program it operates, establishes, manages, conducts, or 16973
maintains in a conspicuous place in the preschool program or 16974
licensed school child program that is accessible to parents, 16975
custodians, or guardians and employees and staff members of the 16976
program at all times when the program is in operation. 16977

(B) Any school district board of education, county MR/DD 16978
board, or eligible nonpublic school, ~~head start grantee, or head~~ 16979
~~start delegate agency~~ that desires to operate, establish, manage, 16980
conduct, or maintain a preschool program shall apply to the 16981
department of education for a license on a form that the 16982
department shall prescribe by rule. Any school district board of 16983
education, county MR/DD board, or eligible nonpublic school that 16984
desires to obtain a license for a school child program shall apply 16985
to the department for a license on a form that the department 16986
shall prescribe by rule. The department shall provide at no charge 16987
to each applicant for a license under this section a copy of the 16988
requirements under sections 3301.52 to 3301.59 of the Revised Code 16989
and any rules adopted under those sections. The department shall 16990
mail application forms for the renewal of a license at least one 16991
hundred twenty days prior to the date of the expiration of the 16992
license, and the application for renewal of a license shall be 16993
filed with the department at least sixty days before the date of 16994
the expiration of the existing license. The department may 16995
establish application fees by rule adopted under Chapter 119. of 16996
the Revised Code, and all applicants for a license shall pay any 16997
fee established by the department at the time of making an 16998
application for a license. All fees collected pursuant to this 16999
section shall be paid into the state treasury to the credit of the 17000

general revenue fund. 17001

(C) Upon the filing of an application for a license, the 17002
department of education shall investigate and inspect the 17003
preschool program or school child program to determine the license 17004
capacity for each age category of children of the program and to 17005
determine whether the program complies with sections 3301.52 to 17006
3301.59 of the Revised Code and any rules adopted under those 17007
sections. When, after investigation and inspection, the department 17008
of education is satisfied that sections 3301.52 to 3301.59 of the 17009
Revised Code and any rules adopted under those sections are 17010
complied with by the applicant, the department of education shall 17011
issue the program a provisional license as soon as practicable in 17012
the form and manner prescribed by the rules of the department. The 17013
provisional license shall be valid for six months from the date of 17014
issuance unless revoked. 17015

(D) The department of education shall investigate and inspect 17016
a preschool program or school child program that has been issued a 17017
provisional license at least once during operation under the 17018
provisional license. If, after the investigation and inspection, 17019
the department of education determines that the requirements of 17020
sections 3301.52 to 3301.59 of the Revised Code and any rules 17021
adopted under those sections are met by the provisional licensee, 17022
the department of education shall issue a license that is 17023
effective for two years from the date of the issuance of the 17024
provisional license. 17025

(E) Upon the filing of an application for the renewal of a 17026
license by a preschool program or school child program, the 17027
department of education shall investigate and inspect the 17028
preschool program or school child program. If the department of 17029
education determines that the requirements of sections 3301.52 to 17030
3301.59 of the Revised Code and any rules adopted under those 17031
sections are met by the applicant, the department of education 17032

shall renew the license for two years from the date of the 17033
expiration date of the previous license. 17034

(F) The license or provisional license shall state the name 17035
of the school district board of education, county MR/DD board, or 17036
~~eligible nonpublic school, head start grantee, or head start~~ 17037
~~delegate agency~~ that operates the preschool program or school 17038
child program and the license capacity of the program. The license 17039
shall include any other information required by section 5104.03 of 17040
the Revised Code for the license of a child day-care center. 17041

(G) The department of education may revoke the license of any 17042
preschool program or school child program that is not in 17043
compliance with the requirements of sections 3301.52 to 3301.59 of 17044
the Revised Code and any rules adopted under those sections. 17045

(H) If the department of education revokes a license or 17046
refuses to renew a license to a program, the department shall not 17047
issue a license to the program within two years from the date of 17048
the revocation or refusal. All actions of the department with 17049
respect to licensing preschool programs and school child programs 17050
shall be in accordance with Chapter 119. of the Revised Code. 17051

Sec. 3301.80. (A) There is hereby created the ~~Ohio SchoolNet~~ 17052
~~commission as an independent agency~~ office within the department 17053
of education. The ~~commission~~ office shall administer programs to 17054
provide financial and other assistance to school districts and 17055
other educational institutions for the acquisition and utilization 17056
of educational technology. 17057

~~The commission is a body corporate and politic, an agency of~~ 17058
~~the state performing essential governmental functions of the~~ 17059
~~state.~~ 17060

(B)(1) ~~The commission shall consist of eleven members, seven~~ 17061
~~of whom are voting members. Of the voting members, one shall be~~ 17062

~~appointed by the speaker of the house of representatives and one 17063
shall be appointed by the president of the senate. The members 17064
appointed by the speaker of the house and the president of the 17065
senate shall not be members of the general assembly. The state 17066
superintendent of public instruction or a designee of the 17067
superintendent, the director of budget and management or a 17068
designee of the director, the director of administrative services 17069
or a designee of the director, the chairperson of the public 17070
utilities commission or a designee of the chairperson, and the 17071
director of the Ohio educational telecommunications network 17072
commission or a designee of the director shall serve on the 17073
commission as ex officio voting members. Of the nonvoting members, 17074
two shall be members of the house of representatives appointed by 17075
the speaker of the house and two shall be members of the senate 17076
appointed by the president of the senate. The members appointed 17077
from each house shall not be members of the same political party. 17078
The commission shall appoint officers from among its members. 17079~~

~~(2) The members shall serve without compensation. The voting 17080
members appointed by the speaker of the house of representatives 17081
and the president of the senate shall be reimbursed, pursuant to 17082
office of budget and management guidelines, for necessary expenses 17083
incurred in the performance of official duties. 17084~~

~~(3) The terms of office for the members appointed by the 17085
speaker of the house and the president of the senate shall be for 17086
two years, with each term ending on the same day of the same month 17087
as did the term that it succeeds, except that the voting members 17088
so appointed may be removed at anytime by their respective 17089
appointing authority. The members appointed by the speaker of the 17090
house and the president of the senate may be reappointed. Any 17091
member appointed from the house of representatives or senate who 17092
ceases to be a member of the legislative house from which the 17093
member was appointed shall cease to be a member of the commission. 17094~~

~~Vacancies among appointed members shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which a predecessor was appointed shall hold office as a member for the remainder of that term. The members appointed by the speaker of the house and the president of the senate shall continue in office subsequent to the expiration date of that member's term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.~~

~~(C)(1) The commission office shall be under the supervision of an executive director who shall be appointed by the commission. The executive director shall serve at the pleasure of the commission and superintendent of public instruction, who shall direct commission office employees in the administration of all programs for the provision of financial and other assistance to school districts and other educational institutions for the acquisition and utilization of educational technology.~~

~~(2) The employees of the Ohio SchoolNet commission office shall be placed in the unclassified service. The commission shall fix the compensation of the executive director. The executive director superintendent shall employ and fix the compensation for such employees as necessary to facilitate the activities and purposes of the commission. The employees shall serve at the pleasure of the ~~executive director~~ superintendent.~~

~~(3) The employees of the Ohio SchoolNet commission office shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code.~~

~~(D)(C) The Ohio SchoolNet commission office shall do all of the following:~~

~~(1) Make grants to institutions and other organizations as~~

prescribed by the general assembly for the provision of technical 17126
assistance, professional development, and other support services 17127
to enable school districts, community schools established under 17128
Chapter 3314. of the Revised Code, and other educational 17129
institutions to utilize educational technology; 17130

(2) Contract with ~~the department of education~~, state 17131
institutions of higher education, private nonprofit institutions 17132
of higher education holding certificates of authorization under 17133
section 1713.02 of the Revised Code, and such other public or 17134
private entities as the ~~executive director~~ superintendent deems 17135
necessary for the administration and implementation of the 17136
programs ~~under administered by the commission's jurisdiction~~ 17137
office; 17138

(3) Establish a reporting system to which school districts, 17139
community schools established under Chapter 3314. of the Revised 17140
Code, and other educational institutions receiving financial 17141
assistance pursuant to this section for the acquisition of 17142
educational technology report information as to the manner in 17143
which such assistance was expended, the manner in which the 17144
equipment or services purchased with the assistance is being 17145
utilized, the results or outcome of this utilization, and other 17146
information as may be required by the ~~commission~~ office; 17147

(4) Establish necessary guidelines governing purchasing and 17148
procurement by participants in programs administered by the 17149
~~commission~~ office that facilitate the timely and effective 17150
implementation of such programs; 17151

(5) Take into consideration the efficiency and cost savings 17152
of statewide procurement prior to allocating and releasing funds 17153
for any programs under its administration. 17154

~~(E)(1) The executive director shall implement policies and 17155
directives issued by the Ohio SchoolNet commission. 17156~~

~~(2)(D)~~ The ~~Ohio SchoolNet~~ ~~commission~~ office may establish a systems support network to facilitate the timely implementation of the programs, projects, or activities for which it provides assistance.

~~(3)(E)~~ Chapters 123., 124., 125., and 153., and sections 9.331, 9.332, and 9.333 of the Revised Code do not apply to contracts, programs, projects, or activities of the ~~Ohio SchoolNet~~ ~~commission~~ office.

Sec. 3301.801. (A) The ~~Ohio SchoolNet~~ ~~commission~~ department of education shall create and maintain a clearinghouse for classroom teachers, including any classroom teachers employed by community schools established under Chapter 3314. of the Revised Code, to easily obtain lesson plans and materials and other practical resources for use in classroom teaching. The ~~commission~~ department shall develop a method of obtaining submissions, from classroom teachers and others, of such plans, materials, and other resources that have been used in the classroom and that can be readily used and implemented by classroom teachers in their regular teaching activities. The ~~commission~~ department also shall develop methods of informing classroom teachers of both the availability of such plans, materials, and other resources, and of the opportunity to submit such plans, materials, and other resources and other classroom teaching ideas to the clearinghouse.

The department ~~of education~~ shall regularly identify research-based practices concerned with scheduling and allotting instructional time and ~~submit~~ include such practices ~~to the~~ ~~commission for inclusion~~ in the clearinghouse.

The ~~commission~~ department shall periodically report to 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 education committees of the

senate and the house of representatives regarding the 17188
clearinghouse and make recommendations for changes in state law or 17189
administrative rules that may facilitate the usefulness of the 17190
clearinghouse. 17191

(B) Not later than one year after ~~the effective date of this~~ 17192
~~amendment~~ September 11, 2001, the department ~~of education~~ shall 17193
identify research studies on academic intervention and prevention 17194
practices that have been successful in improving the academic 17195
performance of students from different ethnic and socioeconomic 17196
groups, develop an annotated bibliography of such studies, and 17197
~~provide that bibliography to the Ohio SchoolNet commission. The~~ 17198
~~commission shall~~ promptly make the bibliography available to 17199
school districts as a part of the clearinghouse established under 17200
this section. 17201

Sec. 3313.979. Each scholarship ~~or grant~~ to be used for 17202
payments to a registered private school ~~or to an approved tutorial~~ 17203
~~assistance provider~~ is payable to the parents of the student 17204
entitled to the scholarship ~~or grant~~. Each scholarship to be used 17205
for payments to a public school in an adjacent school district is 17206
payable to the school district of attendance by the superintendent 17207
of public instruction. Each grant to be used for payments to an 17208
approved tutorial assistance provider is payable to the approved 17209
tutorial assistance provider. 17210

(A)(1) By the fifteenth day of each month of the school year 17211
that any scholarship students are enrolled in a registered private 17212
school, the chief administrator of that school shall notify the 17213
state superintendent of: 17214

(a) The number of students who were reported to the school 17215
district as having been admitted by that private school pursuant 17216
to division (A)(2)(b) of section 3313.978 of the Revised Code and 17217
who were still enrolled in the private school as of the first day 17218

of such month, and the numbers of such students who qualify for 17219
seventy-five and ninety per cent of the scholarship amount; 17220

(b) The number of students who were reported to the school 17221
district as having been admitted by another private school 17222
pursuant to division (A)(2)(b) of section 3313.978 of the Revised 17223
Code and since the date of admission have transferred to the 17224
school providing the notification under division (A)(1) of this 17225
section, and the numbers of such students who qualify for 17226
seventy-five and ninety per cent of the scholarship amount. 17227

(2) From time to time, the state superintendent shall make a 17228
payment to the parent of each student entitled to a scholarship. 17229
Each payment shall include for each student reported under 17230
division (A)(1) of this section, a portion of seventy-five or 17231
ninety per cent, as applicable, of the scholarship amount 17232
specified in divisions (C)(1) and (2) of section 3313.978 of the 17233
Revised Code. This amount shall be proportionately reduced in the 17234
case of any such student who is not enrolled in a registered 17235
private school for the entire school year. 17236

(3) The first payment under this division shall be made by 17237
the last day of November and shall equal one-third of seventy-five 17238
or ninety per cent, as applicable, of the estimated total amount 17239
that will be due to the parent for the school year pursuant to 17240
division (A)(2) of this section. 17241

(B) The state superintendent, on behalf of the parents of a 17242
scholarship student enrolled in a public school in an adjacent 17243
school district pursuant to section 3327.06 of the Revised Code, 17244
shall make the tuition payments required by that section to the 17245
school district admitting the student, except that, 17246
notwithstanding sections 3323.13, 3323.14, and 3327.06 of the 17247
Revised Code, the total payments in any school year shall not 17248
exceed seventy-five or ninety per cent, as applicable, of the 17249
scholarship amount provided in divisions (C)(1) and (2) of section 17250

3313.978 of the Revised Code. 17251

(C) Whenever an approved provider provides tutorial 17252
assistance to a student, the state superintendent shall pay the 17253
~~parent~~ approved provider for such costs upon receipt of a 17254
statement ~~from the parent~~ specifying the services provided and the 17255
costs of the services, which statement shall be signed by the 17256
provider and verified by the chief administrator having 17257
supervisory control over the tutoring site. The total payments to 17258
any ~~parent~~ approved provider under this division for all provider 17259
services to any individual student in any school year shall not 17260
exceed seventy-five or ninety per cent, as applicable, of the 17261
grant amount provided in division (C)(3) of section 3313.978 of 17262
the Revised Code. 17263

Sec. 3314.074. Divisions (A) and (B) of this section apply 17264
only to the extent permitted under Chapter 1702. of the Revised 17265
Code. 17266

(A) If any community school established under this chapter 17267
permanently closes and ceases its operation as a community school, 17268
the assets of that school shall be distributed first to the 17269
retirement funds of employees of the school, employees of the 17270
school, and private creditors who are owed compensation and then 17271
any remaining funds shall be paid to the state treasury to the 17272
credit of the general revenue fund. 17273

(B) If a community school closes and ceases to operate as a 17274
community school and the school has received computer hardware or 17275
software from the ~~Ohio SchoolNet commission~~ department of 17276
education, such hardware or software shall be returned to the 17277
~~commission~~ department, and the ~~commission~~ department shall 17278
redistribute the hardware and software, to the extent such 17279
redistribution is possible, to school districts in conformance 17280
with the provisions of the programs operated and administered by 17281

the ~~commission~~ department. 17282

(C) If the assets of the school are insufficient to pay all 17283
persons or entities to whom compensation is owed, the 17284
prioritization of the distribution of the assets to individual 17285
persons or entities within each class of payees may be determined 17286
by decree of a court in accordance with this section and Chapter 17287
1702. of the Revised Code. 17288

Sec. 3314.083. If the department of education pays a joint 17289
vocational school district under division (G)(4) of section 17290
3317.16 of the Revised Code for excess costs of providing special 17291
education and related services to a handicapped student who is 17292
enrolled in a community school, as calculated under division 17293
(G)(2) of that section, the department shall deduct the amount of 17294
that payment from the amount calculated for payment to the 17295
community school under section 3314.08 of the Revised Code. 17296

Sec. 3316.08. During a school district's fiscal emergency 17297
period, the auditor of state shall determine annually, or at any 17298
other time upon request of the financial planning and supervision 17299
commission, whether the school district will incur an operating 17300
deficit. If the auditor of state determines that a school district 17301
will incur an operating deficit, the auditor of state shall 17302
certify that determination to the superintendent of public 17303
instruction, the financial planning and supervision commission, 17304
and the board of education of the school district. Upon receiving 17305
the auditor of state's certification, the board of education ~~or~~ 17306
and the commission each shall ~~adopt~~ consider adopting a resolution 17307
to submit a ballot question proposing the levy of a tax under 17308
section 5705.194 or 5705.21 or Chapter 5748. of the Revised Code. 17309
After the board of education and the commission consider adopting 17310
a resolution for the levy of such a tax, the board of education 17311
and commission each shall adopt a resolution that explains the 17312

decision to propose or not propose such a levy. Except as 17313
otherwise provided in this division, the tax shall be levied in 17314
the manner prescribed for a tax levied under section 5705.194 or 17315
5705.21 or under Chapter 5748. of the Revised Code. ~~The~~ If the 17316
board of education or commission decides that a tax shall should 17317
be levied, the tax shall be levied for the purpose of paying 17318
current operating expenses of the school district. The question 17319
shall propose that the tax be levied at ~~the~~ a rate required to 17320
~~produce annual revenue sufficient to eliminate the operating~~ 17321
~~deficit as certified by the auditor of state and to repay~~ 17322
~~outstanding loans or other obligations incurred by the board of~~ 17323
~~education for the purpose of reducing or eliminating operating~~ 17324
~~deficits~~ generate an amount that would produce a positive fiscal 17325
year end cash balance not later than the fifth year of the 17326
district's current five-year forecast submitted under section 17327
5705.391 of the Revised Code, as determined by the financial 17328
planning and supervision commission in consultation with the 17329
district treasurer. The rate of a tax levied under section 17330
5705.194 or 5705.21 of the Revised Code shall be determined by the 17331
county auditor, and the rate of a tax levied under section 5748.02 17332
or 5748.08 of the Revised Code shall be determined by the tax 17333
commissioner, upon the request of the commission. The commission 17334
shall determine the election at which the question of the tax 17335
shall appear on the ballot, and the board of education or 17336
commission shall submit a copy of its resolution to the board of 17337
elections not later than seventy-five days prior to the day of 17338
that election. The board of elections conducting the election 17339
shall certify the results of the election to the board of 17340
education and to the financial planning and supervision 17341
commission. 17342

Sec. 3317.012. (A)(1) The general assembly, having analyzed 17343
school district expenditure and cost data for fiscal year 1999, 17344

performed the calculation described in division (B) of this 17345
section, adjusted the results for inflation, and added the amounts 17346
described in division (A)(2) of this section, hereby determines 17347
that the base cost of an adequate education per pupil for the 17348
fiscal year beginning July 1, 2001, is \$4,814. For the ~~five~~ two 17349
following fiscal years, the base cost per pupil for each of those 17350
years, reflecting an annual rate of inflation of two and 17351
eight-tenths per cent, is \$4,949 for fiscal year 2003, and \$5,088 17352
for fiscal year 2004, ~~\$5,230 for fiscal year 2005, \$5,376 for~~ 17353
~~fiscal year 2006, and \$5,527 for fiscal year 2007.~~ 17354

(2) The base cost per pupil amounts specified in division 17355
(A)(1) of this section include amounts to reflect the cost to 17356
school districts of increasing the minimum number of high school 17357
academic units required for graduation beginning September 15, 17358
2001, under section 3313.603 of the Revised Code. Analysis of 17359
fiscal year 1999 data revealed that the school districts meeting 17360
the requirements of division (B) of this section on average 17361
required high school students to complete a minimum of nineteen 17362
and eight-tenths units to graduate. The general assembly 17363
determines that the cost of funding the additional two-tenths unit 17364
required by section 3313.603 of the Revised Code is \$12 per pupil 17365
in fiscal year 2002. This amount was added after the calculation 17366
described in division (B) of this section and the adjustment for 17367
inflation from fiscal year 1999 to fiscal year 2002. It is this 17368
total amount, the calculated base cost plus the supplement to pay 17369
for the additional partial unit, that constitutes the base cost 17370
amount specified in division (A)(1) of this section for fiscal 17371
year 2002 and that is inflated to produce the base cost amounts 17372
for fiscal years 2003 through ~~2007~~ 2004. 17373

(B) In determining the base cost stated in division (A) of 17374
this section, capital and debt costs, costs paid for by federal 17375
funds, and costs covered by funds provided for disadvantaged pupil 17376

impact aid and transportation were excluded, as were the effects 17377
on the districts' state funds of the application of the 17378
cost-of-doing-business factors, assuming a seven and one-half per 17379
cent variance. 17380

The base cost for fiscal year 1999 was calculated as the 17381
unweighted average cost per student, on a school district basis, 17382
of educating students who were not receiving vocational education 17383
or services pursuant to Chapter 3323. of the Revised Code and who 17384
were enrolled in a city, exempted village, or local school 17385
district that in fiscal year 1999 met all of the following 17386
criteria: 17387

(1) The district met at least twenty of the following 17388
twenty-seven performance indicators: 17389

(a) A ninety per cent or higher graduation rate; 17390

(b) At least seventy-five per cent of fourth graders 17391
proficient on the mathematics test prescribed under former 17392
division (A)(1) of section 3301.0710 of the Revised Code; 17393

(c) At least seventy-five per cent of fourth graders 17394
proficient on the reading test prescribed under former division 17395
(A)(1) of section 3301.0710 of the Revised Code; 17396

(d) At least seventy-five per cent of fourth graders 17397
proficient on the writing test prescribed under former division 17398
(A)(1) of section 3301.0710 of the Revised Code; 17399

(e) At least seventy-five per cent of fourth graders 17400
proficient on the citizenship test prescribed under former 17401
division (A)(1) of section 3301.0710 of the Revised Code; 17402

(f) At least seventy-five per cent of fourth graders 17403
proficient on the science test prescribed under former division 17404
(A)(1) of section 3301.0710 of the Revised Code; 17405

(g) At least seventy-five per cent of sixth graders 17406

proficient on the mathematics test prescribed under <u>former</u>	17407
division (A)(2) of section 3301.0710 of the Revised Code;	17408
(h) At least seventy-five per cent of sixth graders	17409
proficient on the reading test prescribed under <u>former</u> division	17410
(A)(2) of section 3301.0710 of the Revised Code;	17411
(i) At least seventy-five per cent of sixth graders	17412
proficient on the writing test prescribed under <u>former</u> division	17413
(A)(2) of section 3301.0710 of the Revised Code;	17414
(j) At least seventy-five per cent of sixth graders	17415
proficient on the citizenship test prescribed under <u>former</u>	17416
division (A)(2) of section 3301.0710 of the Revised Code;	17417
(k) At least seventy-five per cent of sixth graders	17418
proficient on the science test prescribed under <u>former</u> division	17419
(A)(2) of section 3301.0710 of the Revised Code;	17420
(l) At least seventy-five per cent of ninth graders	17421
proficient on the mathematics test prescribed under Section 4 of	17422
Am. Sub. S.B. 55 of the 122nd general assembly;	17423
(m) At least seventy-five per cent of ninth graders	17424
proficient on the reading test prescribed under Section 4 of Am.	17425
Sub. S.B. 55 of the 122nd general assembly;	17426
(n) At least seventy-five per cent of ninth graders	17427
proficient on the writing test prescribed under Section 4 of Am.	17428
Sub. S.B. 55 of the 122nd general assembly;	17429
(o) At least seventy-five per cent of ninth graders	17430
proficient on the citizenship test prescribed under Section 4 of	17431
Am. Sub. S.B. 55 of the 122nd general assembly;	17432
(p) At least seventy-five per cent of ninth graders	17433
proficient on the science test prescribed under Section 4 of Am.	17434
Sub. S.B. 55 of the 122nd general assembly;	17435
(q) At least eighty-five per cent of tenth graders proficient	17436

on the mathematics test prescribed under Section 4 of Am. Sub.	17437
S.B. 55 of the 122nd general assembly;	17438
(r) At least eighty-five per cent of tenth graders proficient	17439
on the reading test prescribed under Section 4 of Am. Sub. S.B. 55	17440
of the 122nd general assembly;	17441
(s) At least eighty-five per cent of tenth graders proficient	17442
on the writing test prescribed under Section 4 of Am. Sub. S.B. 55	17443
of the 122nd general assembly;	17444
(t) At least eighty-five per cent of tenth graders proficient	17445
on the citizenship test prescribed under Section 4 of Am. Sub.	17446
S.B. 55 of the 122nd general assembly;	17447
(u) At least eighty-five per cent of tenth graders proficient	17448
on the science test prescribed under Section 4 of Am. Sub. S.B. 55	17449
of the 122nd general assembly;	17450
(v) At least sixty per cent of twelfth graders proficient on	17451
the mathematics test prescribed under former division (A)(3) of	17452
section 3301.0710 of the Revised Code;	17453
(w) At least sixty per cent of twelfth graders proficient on	17454
the reading test prescribed under former division (A)(3) of	17455
section 3301.0710 of the Revised Code;	17456
(x) At least sixty per cent of twelfth graders proficient on	17457
the writing test prescribed under former division (A)(3) of	17458
section 3301.0710 of the Revised Code;	17459
(y) At least sixty per cent of twelfth graders proficient on	17460
the citizenship test prescribed under former division (A)(3) of	17461
section 3301.0710 of the Revised Code;	17462
(z) At least sixty per cent of twelfth graders proficient on	17463
the science test prescribed under <u>former</u> division (A)(3) of	17464
section 3301.0710 of the Revised Code;	17465
(aa) An attendance rate for the year of at least ninety-three	17466

per cent as defined in section 3302.01 of the Revised Code. 17467

In determining whether a school district met any of the 17468
performance standards specified in divisions (B)(1)(a) to (aa) of 17469
this section, the general assembly used a rounding procedure 17470
previously recommended by the department of education. It is the 17471
same rounding procedure the general assembly used in 1998 to 17472
determine whether a district had met the standards of former 17473
divisions (B)(1)(a) to (r) of this section for purposes of 17474
constructing the previous model based on fiscal year 1996 data. 17475

(2) The district was not among the five per cent of all 17476
districts with the highest income, nor among the five per cent of 17477
all districts with the lowest income. 17478

(3) The district was not among the five per cent of all 17479
districts with the highest valuation per pupil, nor among the five 17480
per cent of all districts with the lowest valuation per pupil. 17481

This model for calculating the base cost of an adequate 17482
education is expenditure-based. The general assembly recognizes 17483
that increases in state funding to school districts since fiscal 17484
year 1996, the fiscal year upon which the general assembly based 17485
its model for calculating state funding to school districts for 17486
fiscal years 1999 through 2001, has increased school district base 17487
cost expenditures for fiscal year 1999, the fiscal year upon which 17488
the general assembly based its model for calculating state funding 17489
for fiscal years 2002 through ~~2007~~ 2004. In the case of school 17490
districts included in the fiscal year 1999 model that also had met 17491
the fiscal year 1996 performance criteria of former division 17492
(B)(1) of this section, the increased state funding may have 17493
driven the districts' expenditures beyond the expenditures that 17494
were actually needed to maintain their educational programs at the 17495
level necessary to maintain their ability to meet the fiscal year 17496
1999 performance criteria of current division (B)(1) of this 17497
section. The general assembly has determined to control for this 17498

effect by stipulating in the later model that the fiscal year 1999 17499
base cost expenditures of the districts that also met the 17500
performance criteria of former division (B)(1) of this section 17501
equals their base cost expenditures per pupil for fiscal year 17502
1996, inflated to fiscal year 1999 using an annual rate of 17503
inflation of two and eight-tenths per cent. However, if this 17504
inflated amount exceeded the district's actual fiscal year 1999 17505
base cost expenditures per pupil, the district's actual fiscal 17506
year 1999 base cost expenditures per pupil were used in the 17507
calculation. For districts in the 1999 model that did not also 17508
meet the performance criteria of former division (B)(1) of this 17509
section, the actual 1999 base cost per pupil expenditures were 17510
used in the calculation of the average district per pupil costs of 17511
the model districts. 17512

~~(C) In July of 2005, and in July of every six years 17513
thereafter, the speaker of the house of representatives and the 17514
president of the senate shall each appoint three members to a 17515
committee to reexamine the cost of an adequate education. No more 17516
than two members from any political party shall represent each 17517
house. The director of budget and management and the 17518
superintendent of public instruction shall serve as nonvoting ex 17519
officio members of the committee. 17520~~

~~The committee shall select a rational methodology for 17521
calculating the costs of an adequate education system for the 17522
ensuing six-year period, and shall report the methodology and the 17523
resulting costs to the general assembly. In performing its 17524
function, the committee is not bound by any method used by 17525
previous general assemblies to examine and calculate costs and 17526
instead may utilize any rational method it deems suitable and 17527
reasonable given the educational needs and requirements of the 17528
state at that time. 17529~~

~~The methodology for determining the cost of an adequate 17530~~

~~education system shall take into account the basic educational 17531
costs that all districts incur in educating regular students, the 17532
unique needs of special categories of students, and significant 17533
special conditions encountered by certain classifications of 17534
school districts. 17535~~

~~The committee also shall redetermine, for purposes of 17536
updating the parity aid calculation under section 3317.0217 of the 17537
Revised Code, the average number of effective operating mills that 17538
school districts in the seventieth to ninetieth percentiles of 17539
valuations per pupil collect above the revenues required to 17540
finance their attributed local shares of the calculated cost of an 17541
adequate education. 17542~~

~~Any committee appointed pursuant to this section shall make 17543
its report to the office of budget and management and the general 17544
assembly within one year of its appointment so that the 17545
information is available for use by the office and the general 17546
assembly in preparing the next biennial appropriations act. 17547~~

~~(D)(1) For purposes of this division, an "update year" is the 17548
first fiscal year for which the per pupil base cost of an adequate 17549
education is in effect after being recalculated by the general 17550
assembly. The first update year is fiscal year 2002. The second 17551
update year is fiscal year 2008. 17552~~

~~(2) The general assembly shall recalculate the per pupil base 17553
cost of an adequate education every six years after considering 17554
the recommendations of the committee appointed under division (C) 17555
of this section. At the time of the recalculation, for each of the 17556
five fiscal years following the update year, the general assembly 17557
shall adjust the base cost recalculated for the update year using 17558
an annual rate of inflation that the general assembly determines 17559
appropriate. 17560~~

~~(3) The general assembly shall include, in the act 17561~~

~~appropriating state funds for education programs for a fiscal 17562
biennium that begins with an update year, a statement of its 17563
determination of the total state share percentage of base cost and 17564
parity aid funding for the update year. 17565~~

~~(4) During its biennial budget deliberations, the general 17566
assembly shall determine the total state share percentage of base 17567
cost and parity aid funding for each fiscal year of the upcoming 17568
biennium. This determination shall be based on the latest 17569
projections and data provided by the department of education under 17570
division (D)(6) of this section prior to the enactment of 17571
education appropriations for the upcoming biennium. If, based on 17572
those latest projections and data, the general assembly determines 17573
that the total state share percentage for either or both nonupdate 17574
fiscal years varies more than two and one half percentage points 17575
more or less than the total state share percentage for the most 17576
recent update year, as previously stated by the general assembly 17577
under division (D)(3) of this section, the general assembly shall 17578
determine and enact a method that it considers appropriate to 17579
restrict the estimated variance for each year to within two and 17580
one half percentage points. The general assembly's methods may 17581
include, but are not required to include and need not be limited 17582
to, reexamining the rate of millage charged off as the local share 17583
of base cost funding under divisions (A)(1) and (2) of section 17584
3317.022 of the Revised Code. Regardless of any changes in 17585
charge off millage rates in years between update years, however, 17586
the charge off millage rate for update years shall be twenty three 17587
mills, unless the general assembly determines that a different 17588
millage rate is more appropriate to share the total calculated 17589
base cost between the state and school districts. 17590~~

~~(5) The total state share percentage of base cost and parity 17591
aid funding for any fiscal year is calculated as follows: 17592~~

~~{(Total state base cost + total state parity aid funding) — 17593~~

~~statewide charge off amount] / (Total state base cost + total~~ 17594
~~state parity aid funding)~~ 17595

~~Where:~~ 17596

~~(a) The total state base cost equals the sum of the base~~ 17597
~~costs for all school districts for the fiscal year.~~ 17598

~~(b) The base cost for each school district equals:~~ 17599

~~formula amount X cost of doing business factor X~~ 17600

~~the greater of formula ADM or~~ 17601

~~three year average formula ADM~~ 17602

~~(c) The total state parity aid funding equals the sum of the~~ 17603
~~amounts paid to all school districts for the fiscal year under~~ 17604
~~section 3317.0217 of the Revised Code.~~ 17605

~~(d) The statewide charge off amount equals the sum of the~~ 17606
~~charge off amounts for all school districts.~~ 17607

~~(e) The charge off amount for each school district is the~~ 17608
~~amount calculated as its local share of base cost funding and~~ 17609
~~deducted from the total calculated base cost to determine the~~ 17610
~~amount of its state payment under divisions (A)(1) and (2) of~~ 17611
~~section 3317.022 of the Revised Code. The charge off amount for~~ 17612
~~each school district in fiscal year 2002 is the product of~~ 17613
~~twenty three mills multiplied by the district's recognized~~ 17614
~~valuation as adjusted, if applicable, under division (A)(2) of~~ 17615
~~section 3317.022 of the Revised Code. If however, in any fiscal~~ 17616
~~year, including fiscal year 2002, a school district's calculated~~ 17617
~~charge off amount exceeds its base cost calculated as described in~~ 17618
~~division (D)(5)(b) of this section, the district's charge off~~ 17619
~~amount shall be deemed to equal its calculated base cost.~~ 17620

~~(6) Whenever requested by the chairperson of the standing~~ 17621
~~committee of the house or representatives or the senate having~~ 17622
~~primary jurisdiction over appropriations, the legislative budget~~ 17623
~~officer, or the director of budget and management, the department~~ 17624

~~of education shall report its latest projections for total base 17625
cost, total parity aid funding, and the statewide charge off 17626
amount, as those terms are defined in division (D)(5) of this 17627
section, for each year of the upcoming fiscal biennium, and all 17628
data it used to make the projections. 17629~~

Sec. 3317.013. This section does not apply to handicapped 17630
preschool students. 17631

Analysis of special education cost data has resulted in a 17632
finding that the average special education additional cost per 17633
pupil, including the costs of related services, can be expressed 17634
as a multiple of the base cost per pupil calculated under section 17635
3317.012 of the Revised Code. The multiples for the following 17636
categories of special education programs, as these programs are 17637
defined for purposes of Chapter 3323. of the Revised Code, and 17638
adjusted as provided in this section, are as follows: 17639

(A) A multiple of 0.2892 for students whose primary or only 17640
identified handicap is a speech and language handicap, as this 17641
term is defined pursuant to Chapter 3323. of the Revised Code; 17642

(B) A multiple of 0.3691 for students identified as specific 17643
learning disabled or developmentally handicapped, as these terms 17644
are defined pursuant to Chapter 3323. of the Revised Code, or 17645
other health handicapped-minor; 17646

(C) A multiple of 1.7695 for students identified as hearing 17647
handicapped, vision impaired, or severe behavior handicapped, as 17648
these terms are defined pursuant to Chapter 3323. of the Revised 17649
Code; 17650

(D) A multiple of 2.3646 for students identified as 17651
orthopedically handicapped, as this term is defined pursuant to 17652
Chapter 3323. of the Revised Code or other health handicapped - 17653
major; 17654

(E) A multiple of 3.1129 for students identified as multihandicapped, as this term is defined pursuant to Chapter 3323. of the Revised Code; 17655
17656
17657

(F) A multiple of 4.7342 for students identified as autistic, having traumatic brain injuries, or as both visually and hearing disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code. 17658
17659
17660
17661

~~In fiscal year 2002 2004, the multiples specified in divisions (A) to (F) of this section shall be adjusted by multiplying them by 0.825. In fiscal year 2003, the multiples specified in those divisions shall be adjusted by multiplying them by 0.875 for purposes of calculating the state and local shares of special education and related services additional weighted funding, the department of education shall determine a percentage with which it shall adjust the multiples specified in divisions (A) to (F) of this section so that the adjusted multiples generate state funding equal to the amount appropriated for the state share of special education and related services additional weighted funding. The department shall certify the percentage to the office of budget and management not later than July 30, 2003. The department may adjust the percentage in effect during fiscal year 2004 if updated data indicate that that percentage will generate state share funding that is greater than or less than the amount appropriated for it. The department shall notify the office of budget and management each time it adjusts the percentage and provide the office with the data justifying the adjustment.~~ 17662
17663
17664
17665
17666
17667
17668
17669
17670
17671
17672
17673
17674
17675
17676
17677
17678
17679
17680

In fiscal year 2004, not less than one hundred per cent of the unadjusted average special education additional cost per pupil, represented by the unadjusted multiples of the base cost per pupil specified in divisions (A) to (F) of this section, shall be funded through a combination of the state and local shares of special education and related services additional weighted funding 17681
17682
17683
17684
17685
17686

as calculated under this chapter and federal special education 17687
funds passed through to city, local, exempted village, and joint 17688
vocational school districts. Not later than May 30, 2004, the 17689
department shall submit to the office of budget and management a 17690
report that specifies for each city, local, exempted village, and 17691
joint vocational school district the fiscal year 2004 allocation 17692
of the state and local shares of special education and related 17693
services additional weighted funding and federal special education 17694
funds passed through to the district. 17695

Sec. 3317.0213. No money shall be distributed under this 17696
section after fiscal year ~~2005~~ 2004. 17697

(A) As used in this section: 17698

(1) "ADM" for any school district means: 17699

(a) In fiscal year 1999, the FY 1998 ADM; 17700

(b) In fiscal years 2000 through ~~2005~~ 2004, the formula ADM 17701
reported for the previous fiscal year. 17702

(2) "Average taxable value" means the average of the amounts 17703
certified for a district in the second, third, and fourth 17704
preceding fiscal years under divisions (A)(1) and (2) of section 17705
3317.021 of the Revised Code. 17706

(3) "Valuation per pupil" for a district means: 17707

(a) In fiscal year 1999, the district's average taxable 17708
value, divided by the district's FY 1998 ADM; 17709

(b) In a fiscal year that occurs after fiscal year 1999, the 17710
district's average taxable value, divided by the district's 17711
formula ADM for the preceding fiscal year. 17712

(4) "Threshold valuation" means: 17713

(a) In fiscal year 1999, the adjusted valuation per pupil of 17714
the school district with the two hundred twenty-ninth lowest 17715

adjusted valuation per pupil in the state, according to data 17716
available at the time of the computation under division (B) of 17717
this section; 17718

(b) In fiscal year 2000, the adjusted valuation per pupil of 17719
the district with the one hundred ninety-sixth lowest such 17720
valuation in the state; 17721

(c) In fiscal year 2001, the adjusted valuation per pupil of 17722
the district with the one hundred sixty-third lowest such 17723
valuation in the state; 17724

(d) In fiscal years 2002 through ~~2005~~ 2004, the adjusted 17725
valuation per pupil of the district with the 17726
one-hundred-eighteenth lowest such valuation in the state. 17727

(5) "Adjusted valuation per pupil" for a district means an 17728
amount calculated in accordance with the following formula: 17729

The district's valuation per pupil - 17730
(\$30,000 X (one minus the 17731
district's income factor)) 17732

(6) "Millage rate" means .012 in fiscal year 1999, .011 in 17733
fiscal year 2000, .010 in fiscal year 2001, and .009 in fiscal 17734
years 2002 through ~~2005~~ 2004. 17735

(7) "Payment percentage" equals 100% prior to fiscal year 17736
2003, 75% in fiscal year 2003, and 50% in fiscal year 2004, ~~25% in~~ 17737
~~fiscal year 2005, and zero after fiscal year 2005.~~ 17738

(B) Beginning in fiscal year 1993, during August of each 17739
fiscal year, the department of education shall distribute to each 17740
school district meeting the requirements of section 3317.01 of the 17741
Revised Code whose adjusted valuation per pupil is less than the 17742
threshold valuation, an amount calculated in accordance with the 17743
following formula: 17744

(The threshold valuation - 17745
the district's adjusted valuation per pupil) X 17746

millage rate X ADM X the payment percentage 17747

Sec. 3317.0217. The department of education shall annually 17748
compute and pay state parity aid to school districts, as follows: 17749

(A) Calculate the local wealth per pupil of each school 17750
district, which equals the following sum: 17751

(1) Two-thirds times the quotient of (a) the district's 17752
recognized valuation divided by (b) its formula ADM; plus 17753

(2) One-third times the quotient of (a) the average of the 17754
total federal adjusted gross income of the school district's 17755
residents for the three years most recently reported under section 17756
3317.021 of the Revised Code divided by (b) its formula ADM. 17757

(B) Rank all school districts in order of local wealth per 17758
pupil, from the district with the lowest local wealth per pupil to 17759
the district with the highest local wealth per pupil. 17760

(C) Compute the per pupil state parity aid funding for each 17761
school district in accordance with the following formula: 17762

Payment percentage X (threshold local wealth 17763
per pupil - the district's local 17764
wealth per pupil) X 0.0095 17765

Where: 17766

(1) "Payment percentage," for purposes of division (C) of 17767
this section, equals 20% in fiscal year 2002, 40% in fiscal year 17768
2003, and 60% in fiscal year 2004, ~~80% in fiscal year 2005, and~~ 17769
~~100% after fiscal year 2005.~~ 17770

(2) Nine and one-half mills (0.0095) is the general 17771
assembly's determination of the average number of effective 17772
operating mills that districts in the seventieth to ninetieth 17773
percentiles of valuations per pupil collected in fiscal year 2001 17774
above the revenues required to finance their attributed local 17775
shares of the calculated cost of an adequate education. This was 17776

determined by (a) adding the district revenues from operating property tax levies and income tax levies, (b) subtracting from that total the sum of (i) twenty-three mills times adjusted recognized valuation plus (ii) the attributed local shares of special education, transportation, and vocational education funding as described in divisions (F)(1) to (3) of section 3317.022 of the Revised Code, and (c) converting the result to an effective operating property tax rate.

(3) The "threshold local wealth per pupil" is the local wealth per pupil of the school district with the four-hundred-ninetieth lowest local wealth per pupil.

If the result of the calculation for a school district under division (C) of this section is less than zero, the district's per pupil parity aid shall be zero.

(D) Compute the per pupil alternative parity aid for each school district that has a combination of an income factor of 1.0 or less, a DPIA index of 1.0 or greater, and a cost-of-doing-business factor of 1.0375 or greater, in accordance with the following formula:

$$\text{Payment percentage} \times \$60,000 \times (1 - \text{income factor}) \times 4/15 \times 0.023$$

Where:

(1) "DPIA index" has the same meaning as in section 3317.029 of the Revised Code.

(2) "Payment percentage," for purposes of division (D) of this section, equals 50% in fiscal year 2002 and 100% after fiscal year 2002.

(E) Pay each district that has a combination of an income factor 1.0 or less, a DPIA index of 1.0 or greater, and a cost-of-doing-business factor of 1.0375 or greater, the greater of the following:

(1) The product of the district's per pupil parity aid 17808
calculated under division (C) of this section times its formula 17809
ADM; 17810

(2) The product of its per pupil alternative parity aid 17811
calculated under division (D) of this section times its formula 17812
ADM. 17813

(F) Pay every other district the product of its per pupil 17814
parity aid calculated under division (C) of this section times its 17815
formula ADM. 17816

~~Every six years, the general assembly shall redetermine, 17817
after considering the report of the committee appointed under 17818
section 3317.012 of the Revised Code, the average number of 17819
effective operating mills that districts in the seventieth to 17820
ninetieth percentiles of valuations per pupil collect above the 17821
revenues required to finance their attributed local shares of the 17822
cost of an adequate education. 17823~~

Sec. 3317.022. (A)(1) The department of education shall 17824
compute and distribute state base cost funding to each school 17825
district for the fiscal year in accordance with the following 17826
formula, making any adjustment required by division (A)(2) of this 17827
section and using the information obtained under section 3317.021 17828
of the Revised Code in the calendar year in which the fiscal year 17829
begins. 17830

Compute the following for each eligible district: 17831

[cost-of-doing-business factor X 17832
the formula amount X (the greater of formula ADM 17833
or three-year average formula ADM)] - 17834
(.023 X recognized valuation) 17835

If the difference obtained is a negative number, the 17836
district's computation shall be zero. 17837

(2)(a) For each school district for which the tax exempt value of the district equals or exceeds twenty-five per cent of the potential value of the district, the department of education shall calculate the difference between the district's tax exempt value and twenty-five per cent of the district's potential value. 17838
17839
17840
17841
17842

(b) For each school district to which division (A)(2)(a) of this section applies, the department shall adjust the recognized valuation used in the calculation under division (A)(1) of this section by subtracting from it the amount calculated under division (A)(2)(a) of this section. 17843
17844
17845
17846
17847

(B) As used in this section: 17848

(1) The "total special education weight" for a district means the sum of the following amounts: 17849
17850

(a) The district's category one special education ADM multiplied by the multiple specified in division (A) of section 3317.013 of the Revised Code; 17851
17852
17853

(b) The district's category two special education ADM multiplied by the multiple specified in division (B) of section 3317.013 of the Revised Code; 17854
17855
17856

(c) The district's category three special education ADM multiplied by the multiple specified in division (C) of section 3317.013 of the Revised Code; 17857
17858
17859

(d) The district's category four special education ADM multiplied by the multiple specified in division (D) of section 3317.013 of the Revised Code; 17860
17861
17862

(e) The district's category five special education ADM multiplied by the multiple specified in division (E) of section 3317.013 of the Revised Code; 17863
17864
17865

(f) The district's category six special education ADM multiplied by the multiple specified in division (F) of section 17866
17867

3317.013 of the Revised Code.	17868
(2) "State share percentage" means the percentage calculated for a district as follows:	17869 17870
(a) Calculate the state base cost funding amount for the district for the fiscal year under division (A) of this section. If the district would not receive any state base cost funding for that year under that division, the district's state share percentage is zero.	17871 17872 17873 17874 17875
(b) If the district would receive state base cost funding under that division, divide that amount by an amount equal to the following:	17876 17877 17878
Cost-of-doing-business factor X	17879
the formula amount X (the greater of formula	17880
ADM or three-year average formula ADM)	17881
The resultant number is the district's state share percentage.	17882 17883
(3) "Related services" includes:	17884
(a) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for handicapped children whose handicaps are described in division (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department;	17885 17886 17887 17888 17889 17890 17891 17892
(b) Speech and language services provided to any student with a handicap, including any student whose primary or only handicap is a speech and language handicap;	17893 17894 17895
(c) Any related service not specifically covered by other state funds but specified in federal law, including but not	17896 17897

limited to, audiology and school psychological services;	17898
(d) Any service included in units funded under former	17899
division (O)(1) of section 3317.023 of the Revised Code;	17900
(e) Any other related service needed by handicapped children	17901
in accordance with their individualized education plans.	17902
(4) The "total vocational education weight" for a district	17903
means the sum of the following amounts:	17904
(a) The district's category one vocational education ADM	17905
multiplied by the multiple specified in division (A) of section	17906
3317.014 of the Revised Code;	17907
(b) The district's category two vocational education ADM	17908
multiplied by the multiple specified in division (B) of section	17909
3317.014 of the Revised Code.	17910
(C)(1) The department shall compute and distribute state	17911
special education and related services additional weighted costs	17912
funds to each school district in accordance with the following	17913
formula:	17914
The district's state share percentage	17915
X the formula amount for the year	17916
for which the aid is calculated	17917
X the district's total special education weight	17918
(2) The attributed local share of special education and	17919
related services additional weighted costs equals:	17920
(1 - the district's state share percentage) X	17921
the district's total special education weight X	17922
the formula amount	17923
(3)(a) The department shall compute and pay in accordance	17924
with this division additional state aid to school districts for	17925
students in categories two through six special education ADM. If a	17926
district's costs for the fiscal year for a student in its	17927

categories two through six special education ADM exceed the 17928
threshold catastrophic cost for serving the student, the district 17929
may submit to the superintendent of public instruction 17930
documentation, as prescribed by the superintendent, of all its 17931
costs for that student. Upon submission of documentation for a 17932
student of the type and in the manner prescribed, the department 17933
shall pay to the district an amount equal to the sum of the 17934
following: 17935

(i) One-half of the district's costs for the student in 17936
excess of the threshold catastrophic cost; 17937

(ii) The product of one-half of the district's costs for the 17938
student in excess of the threshold catastrophic cost multiplied by 17939
the district's state share percentage. 17940

(b) For purposes of division (C)(3)(a) of this section, the 17941
threshold catastrophic cost for serving a student equals: 17942

(i) For a student in the school district's category two, 17943
three, four, or five special education ADM, twenty-five thousand 17944
dollars in fiscal year 2002 and twenty-five thousand seven hundred 17945
dollars in fiscal ~~year~~ years 2003 and 2004; 17946

(ii) For a student in the district's category six special 17947
education ADM, thirty thousand dollars in fiscal year 2002 and 17948
thirty thousand eight hundred forty dollars in fiscal ~~year~~ years 17949
2003 and 2004. 17950

~~The threshold catastrophic costs for fiscal year 2003 17951
represent a two and eight tenths per cent inflationary increase 17952
over fiscal year 2002. 17953~~

(c) The district shall only report under division (C)(3)(a) 17954
of this section, and the department shall only pay for, the costs 17955
of educational expenses and the related services provided to the 17956
student in accordance with the student's individualized education 17957
program. Any legal fees, court costs, or other costs associated 17958

with any cause of action relating to the student may not be 17959
included in the amount. 17960

~~(5)~~(4)(a) As used in this division, the "personnel allowance" 17961
means thirty thousand dollars in fiscal years 2002 ~~and~~, 2003, and 17962
2004. 17963

(b) For the provision of speech services to students, 17964
including students who do not have individualized education 17965
programs prepared for them under Chapter 3323. of the Revised 17966
Code, and for no other purpose, the department of education shall 17967
pay each school district an amount calculated under the following 17968
formula: 17969

(formula ADM divided by 2000) X 17970

the personnel allowance X the state share percentage 17971

(5) In any fiscal year, a school district shall spend for 17972
purposes that the department designates as approved for special 17973
education and related services expenses at least the amount 17974
calculated as follows: 17975

(cost-of-doing-business factor X 17976

formula amount X the sum of categories 17977

one through six special education ADM) + 17978

(total special education weight X formula amount) 17979

The purposes approved by the department for special education 17980
expenses shall include, but shall not be limited to, 17981
identification of handicapped children, compliance with state 17982
rules governing the education of handicapped children and 17983
prescribing the continuum of program options for handicapped 17984
children, and the portion of the school district's overall 17985
administrative and overhead costs that are attributable to the 17986
district's special education student population. 17987

The department shall require school districts to report data 17988
annually to allow for monitoring compliance with division (C)(5) 17989

of this section. The department shall annually report to the 17990
governor and the general assembly the amount of money spent by 17991
each school district for special education and related services. 17992

(D)(1) As used in this division: 17993

(a) "Daily bus miles per student" equals the number of bus 17994
miles traveled per day, divided by transportation base. 17995

(b) "Transportation base" equals total student count as 17996
defined in section 3301.011 of the Revised Code, minus the number 17997
of students enrolled in preschool handicapped units, plus the 17998
number of nonpublic school students included in transportation 17999
ADM. 18000

(c) "Transported student percentage" equals transportation 18001
ADM divided by transportation base. 18002

(d) "Transportation cost per student" equals total operating 18003
costs for board-owned or contractor-operated school buses divided 18004
by transportation base. 18005

(2) Analysis of student transportation cost data has resulted 18006
in a finding that an average efficient transportation use cost per 18007
student can be calculated by means of a regression formula that 18008
has as its two independent variables the number of daily bus miles 18009
per student and the transported student percentage. For fiscal 18010
year 1998 transportation cost data, the average efficient 18011
transportation use cost per student is expressed as follows: 18012

51.79027 + (139.62626 X daily bus miles per student) + 18013

(116.25573 X transported student percentage) 18014

The department of education shall annually determine the 18015
average efficient transportation use cost per student in 18016
accordance with the principles stated in division (D)(2) of this 18017
section, updating the intercept and regression coefficients of the 18018
regression formula modeled in this division, based on an annual 18019
statewide analysis of each school district's daily bus miles per 18020

student, transported student percentage, and transportation cost 18021
per student data. The department shall conduct the annual update 18022
using data, including daily bus miles per student, transported 18023
student percentage, and transportation cost per student data, from 18024
the prior fiscal year. The department shall notify the office of 18025
budget and management of such update by the fifteenth day of 18026
February of each year. 18027

(3) In addition to funds paid under divisions (A), (C), and 18028
(E) of this section, each district with a transported student 18029
percentage greater than zero shall receive a payment equal to a 18030
percentage of the product of the district's transportation base 18031
from the prior fiscal year times the annually updated average 18032
efficient transportation use cost per student, times an inflation 18033
factor of two and eight tenths per cent to account for the 18034
one-year difference between the data used in updating the formula 18035
and calculating the payment and the year in which the payment is 18036
made. The percentage shall be the following percentage of that 18037
product specified for the corresponding fiscal year: 18038

FISCAL YEAR	PERCENTAGE	
2000	52.5%	18039
2001	55%	18040
2002	57.5%	18041
2003 and thereafter	The greater of 60% or the district's state share percentage	18042 18043 18044

The payments made under division (D)(3) of this section each 18044
year shall be calculated based on all of the same prior year's 18045
data used to update the formula. 18046

(4) In addition to funds paid under divisions (D)(2) and (3) 18047
of this section, a school district shall receive a rough road 18048
subsidy if both of the following apply: 18049

(a) Its county rough road percentage is higher than the 18050

statewide rough road percentage, as those terms are defined in 18051
division (D)(5) of this section; 18052

(b) Its district student density is lower than the statewide 18053
student density, as those terms are defined in that division. 18054

(5) The rough road subsidy paid to each district meeting the 18055
qualifications of division (D)(4) of this section shall be 18056
calculated in accordance with the following formula: 18057

(per rough mile subsidy X total rough road miles) X 18058
density multiplier 18059

where: 18060

(a) "Per rough mile subsidy" equals the amount calculated in 18061
accordance with the following formula: 18062

0.75 - {0.75 X [(maximum rough road percentage - 18063
18064

county rough road percentage)/(maximum rough road percentage - 18065
statewide rough road percentage)]} 18066

(i) "Maximum rough road percentage" means the highest county 18067
rough road percentage in the state. 18068

(ii) "County rough road percentage" equals the percentage of 18069
the mileage of state, municipal, county, and township roads that 18070
is rated by the department of transportation as type A, B, C, E2, 18071
or F in the county in which the school district is located or, if 18072
the district is located in more than one county, the county to 18073
which it is assigned for purposes of determining its 18074
cost-of-doing-business factor. 18075

(iii) "Statewide rough road percentage" means the percentage 18076
of the statewide total mileage of state, municipal, county, and 18077
township roads that is rated as type A, B, C, E2, or F by the 18078
department of transportation. 18079

(b) "Total rough road miles" means a school district's total 18080

bus miles traveled in one year times its county rough road 18081
percentage. 18082

(c) "Density multiplier" means a figure calculated in 18083
accordance with the following formula: 18084

$$1 - [(\text{minimum student density} - \text{district student} \quad 18085 \\ \text{density}) / (\text{minimum student density} - \quad 18086 \\ \text{statewide student density})] \quad 18087$$

(i) "Minimum student density" means the lowest district 18088
student density in the state. 18089

(ii) "District student density" means a school district's 18090
transportation base divided by the number of square miles in the 18091
district. 18092

(iii) "Statewide student density" means the sum of the 18093
transportation bases for all school districts divided by the sum 18094
of the square miles in all school districts. 18095

(6) In addition to funds paid under divisions (D)(2) to (5) 18096
of this section, each district shall receive in accordance with 18097
rules adopted by the state board of education a payment for 18098
students transported by means other than board-owned or 18099
contractor-operated buses and whose transportation is not funded 18100
under division (J) of section 3317.024 of the Revised Code. The 18101
rules shall include provisions for school district reporting of 18102
such students. 18103

(E)(1) The department shall compute and distribute state 18104
vocational education additional weighted costs funds to each 18105
school district in accordance with the following formula: 18106

$$\text{state share percentage X} \quad 18107 \\ \text{the formula amount X} \quad 18108 \\ \text{total vocational education weight} \quad 18109$$

In any fiscal year, a school district receiving funds under 18110
division (E)(1) of this section shall spend those funds only for 18111

the purposes that the department designates as approved for 18112
vocational education expenses. 18113

(2) The department shall compute for each school district 18114
state funds for vocational education associated services in 18115
accordance with the following formula: 18116

state share percentage X .05 X 18117
the formula amount X the sum of categories one and two 18118
vocational education ADM 18119

In any fiscal year, a school district receiving funds under 18120
division (E)(2) of this section, or through a transfer of funds 18121
pursuant to division (L) of section 3317.023 of the Revised Code, 18122
shall spend those funds only for the purposes that the department 18123
designates as approved for vocational education associated 18124
services expenses, which may include such purposes as 18125
apprenticeship coordinators, coordinators for other vocational 18126
education services, vocational evaluation, and other purposes 18127
designated by the department. The department may deny payment 18128
under division (E)(2) of this section to any district that the 18129
department determines is not operating those services or is using 18130
funds paid under division (E)(2) of this section, or through a 18131
transfer of funds pursuant to division (L) of section 3317.023 of 18132
the Revised Code, for other purposes. 18133

(F) Beginning in fiscal year 2003, the actual local share in 18134
any fiscal year for the combination of special education and 18135
related services additional weighted costs funding calculated 18136
under division (C)(1) of this section, transportation funding 18137
calculated under divisions (D)(2) and (3) of this section, and 18138
vocational education and associated services additional weighted 18139
costs funding calculated under divisions (E)(1) and (2) of this 18140
section shall not exceed for any school district the product of 18141
three mills times the district's recognized valuation. Beginning 18142
in fiscal year 2003, the department annually shall pay each school 18143

district as an excess cost supplement any amount by which the sum 18144
of the district's attributed local shares for that funding exceeds 18145
that product. For purposes of calculating the excess cost 18146
supplement: 18147

(1) The attributed local share for special education and 18148
related services additional weighted costs funding is the amount 18149
specified in division (C)(2) of this section. 18150

(2) The attributed local share of transportation funding 18151
equals the difference of the total amount calculated for the 18152
district using the formula developed under division (D)(2) of this 18153
section minus the actual amount paid to the district after 18154
applying the percentage specified in division (D)(3) of this 18155
section. 18156

(3) The attributed local share of vocational education and 18157
associated services additional weighted costs funding is the 18158
amount determined as follows: 18159

(1 - state share percentage) X 18160
[(total vocational education weight X the formula amount) + 18161
the payment under division (E)(2) of this section] 18162

Sec. 3317.023. (A) Notwithstanding section 3317.022 of the 18163
Revised Code, the amounts required to be paid to a district under 18164
this chapter shall be adjusted by the amount of the computations 18165
made under divisions (B) to ~~(L)~~(M) of this section. 18166

As used in this section: 18167

(1) "Classroom teacher" means a licensed employee who 18168
provides direct instruction to pupils, excluding teachers funded 18169
from money paid to the district from federal sources; educational 18170
service personnel; and vocational and special education teachers. 18171

(2) "Educational service personnel" shall not include such 18172
specialists funded from money paid to the district from federal 18173

sources or assigned full-time to vocational or special education 18174
students and classes and may only include those persons employed 18175
in the eight specialist areas in a pattern approved by the 18176
department of education under guidelines established by the state 18177
board of education. 18178

(3) "Annual salary" means the annual base salary stated in 18179
the state minimum salary schedule for the performance of the 18180
teacher's regular teaching duties that the teacher earns for 18181
services rendered for the first full week of October of the fiscal 18182
year for which the adjustment is made under division (C) of this 18183
section. It shall not include any salary payments for supplemental 18184
teachers contracts. 18185

(4) "Regular student population" means the formula ADM plus 18186
the number of students reported as enrolled in the district 18187
pursuant to division (A)(1) of section 3313.981 of the Revised 18188
Code; minus the number of students reported under division (A)(2) 18189
of section 3317.03 of the Revised Code; minus the FTE of students 18190
reported under division (B)~~(5)~~, (6), (7), (8), (9), (10), (11), or 18191
(12) of that section who are enrolled in a vocational education 18192
class or receiving special education; and minus one-fourth of the 18193
students enrolled concurrently in a joint vocational school 18194
district. 18195

(5) "State share percentage" has the same meaning as in 18196
section 3317.022 of the Revised Code. 18197

(6) "VEPD" means a school district or group of school 18198
districts designated by the department of education as being 18199
responsible for the planning for and provision of vocational 18200
education services to students within the district or group. 18201

(7) "Lead district" means a school district, including a 18202
joint vocational school district, designated by the department as 18203
a VEPD, or designated to provide primary vocational education 18204

leadership within a VEPD composed of a group of districts. 18205

(B) If the district employs less than one full-time 18206
equivalent classroom teacher for each twenty-five pupils in the 18207
regular student population in any school district, deduct the sum 18208
of the amounts obtained from the following computations: 18209

(1) Divide the number of the district's full-time equivalent 18210
classroom teachers employed by one twenty-fifth; 18211

(2) Subtract the quotient in (1) from the district's regular 18212
student population; 18213

(3) Multiply the difference in (2) by seven hundred fifty-two 18214
dollars. 18215

(C) If a positive amount, add one-half of the amount obtained 18216
by multiplying the number of full-time equivalent classroom 18217
teachers by: 18218

(1) The mean annual salary of all full-time equivalent 18219
classroom teachers employed by the district at their respective 18220
training and experience levels minus; 18221

(2) The mean annual salary of all such teachers at their 18222
respective levels in all school districts receiving payments under 18223
this section. 18224

The number of full-time equivalent classroom teachers used in 18225
this computation shall not exceed one twenty-fifth of the 18226
district's regular student population. In calculating the 18227
district's mean salary under this division, those full-time 18228
equivalent classroom teachers with the highest training level 18229
shall be counted first, those with the next highest training level 18230
second, and so on, in descending order. Within the respective 18231
training levels, teachers with the highest years of service shall 18232
be counted first, the next highest years of service second, and so 18233
on, in descending order. 18234

(D) This division does not apply to a school district that 18235
has entered into an agreement under division (A) of section 18236
3313.42 of the Revised Code. Deduct the amount obtained from the 18237
following computations if the district employs fewer than five 18238
full-time equivalent educational service personnel, including 18239
elementary school art, music, and physical education teachers, 18240
counselors, librarians, visiting teachers, school social workers, 18241
and school nurses for each one thousand pupils in the regular 18242
student population: 18243

(1) Divide the number of full-time equivalent educational 18244
service personnel employed by the district by five 18245
one-thousandths; 18246

(2) Subtract the quotient in (1) from the district's regular 18247
student population; 18248

(3) Multiply the difference in (2) by ninety-four dollars. 18249

(E) If a local school district, or a city or exempted village 18250
school district to which a governing board of an educational 18251
service center provides services pursuant to section 3313.843 of 18252
the Revised Code, deduct the amount of the payment required for 18253
the reimbursement of the governing board under section 3317.11 of 18254
the Revised Code. 18255

(F)(1) If the district is required to pay to or entitled to 18256
receive tuition from another school district under division (C)(2) 18257
or (3) of section 3313.64 or section 3313.65 of the Revised Code, 18258
or if the superintendent of public instruction is required to 18259
determine the correct amount of tuition and make a deduction or 18260
credit under section 3317.08 of the Revised Code, deduct and 18261
credit such amounts as provided in division (I) of section 3313.64 18262
or section 3317.08 of the Revised Code. 18263

(2) For each child for whom the district is responsible for 18264
tuition or payment under division (A)(1) of section 3317.082 or 18265

section 3323.091 of the Revised Code, deduct the amount of tuition 18266
or payment for which the district is responsible. 18267

(G) If the district has been certified by the superintendent 18268
of public instruction under section 3313.90 of the Revised Code as 18269
not in compliance with the requirements of that section, deduct an 18270
amount equal to ten per cent of the amount computed for the 18271
district under section 3317.022 of the Revised Code. 18272

(H) If the district has received a loan from a commercial 18273
lending institution for which payments are made by the 18274
superintendent of public instruction pursuant to division (E)(3) 18275
of section 3313.483 of the Revised Code, deduct an amount equal to 18276
such payments. 18277

(I)(1) If the district is a party to an agreement entered 18278
into under division (D), (E), or (F) of section 3311.06 or 18279
division (B) of section 3311.24 of the Revised Code and is 18280
obligated to make payments to another district under such an 18281
agreement, deduct an amount equal to such payments if the district 18282
school board notifies the department in writing that it wishes to 18283
have such payments deducted. 18284

(2) If the district is entitled to receive payments from 18285
another district that has notified the department to deduct such 18286
payments under division (I)(1) of this section, add the amount of 18287
such payments. 18288

(J) If the district is required to pay an amount of funds to 18289
a cooperative education district pursuant to a provision described 18290
by division (B)(4) of section 3311.52 or division (B)(8) of 18291
section 3311.521 of the Revised Code, deduct such amounts as 18292
provided under that provision and credit those amounts to the 18293
cooperative education district for payment to the district under 18294
division (B)(1) of section 3317.19 of the Revised Code. 18295

(K)(1) If a district is educating a student entitled to 18296

attend school in another district pursuant to a shared education 18297
contract, compact, or cooperative education agreement other than 18298
an agreement entered into pursuant to section 3313.842 of the 18299
Revised Code, credit to that educating district on an FTE basis 18300
both of the following: 18301

(a) An amount equal to the formula amount times the cost of 18302
doing business factor of the school district where the student is 18303
entitled to attend school pursuant to section 3313.64 or 3313.65 18304
of the Revised Code; 18305

(b) An amount equal to the formula amount times the state 18306
share percentage times any multiple applicable to the student 18307
pursuant to section 3317.013 or 3317.014 of the Revised Code. 18308

(2) Deduct any amount credited pursuant to division (K)(1) of 18309
this section from amounts paid to the school district in which the 18310
student is entitled to attend school pursuant to section 3313.64 18311
or 3313.65 of the Revised Code. 18312

(3) If the district is required by a shared education 18313
contract, compact, or cooperative education agreement to make 18314
payments to an educational service center, deduct the amounts from 18315
payments to the district and add them to the amounts paid to the 18316
service center pursuant to section 3317.11 of the Revised Code. 18317

(L)(1) If a district, including a joint vocational school 18318
district, is a lead district of a VEPD, credit to that district 18319
the amounts calculated for all the school districts within that 18320
VEPD pursuant to division (E)(2) of section 3317.022 of the 18321
Revised Code. 18322

(2) Deduct from each appropriate district that is not a lead 18323
district, the amount attributable to that district that is 18324
credited to a lead district under division (L)(1) of this section. 18325

(M) If the department pays a joint vocational school district 18326
under division (G)(4) of section 3317.16 of the Revised Code for 18327

excess costs of providing special education and related services 18328
to a handicapped student, as calculated under division (G)(2) of 18329
that section, the department shall deduct the amount of that 18330
payment from the city, local, or exempted village school district 18331
that is responsible as specified in that section for the excess 18332
costs. 18333

Sec. 3317.024. In addition to the moneys paid to eligible 18334
school districts pursuant to section 3317.022 of the Revised Code, 18335
moneys appropriated for the education programs in divisions (A) to 18336
(H), (J) to (L), (O), (P), and (R) of this section shall be 18337
distributed to school districts meeting the requirements of 18338
section 3317.01 of the Revised Code; in the case of divisions (J) 18339
and (P) of this section, to educational service centers as 18340
provided in section 3317.11 of the Revised Code; in the case of 18341
divisions (E), (M), and (N) of this section, to county MR/DD 18342
boards; in the case of division (R) of this section, to joint 18343
vocational school districts; in the case of division (K) of this 18344
section, to cooperative education school districts; and in the 18345
case of division (Q) of this section, to the institutions defined 18346
under section 3317.082 of the Revised Code providing elementary or 18347
secondary education programs to children other than children 18348
receiving special education under section 3323.091 of the Revised 18349
Code. The following shall be distributed monthly, quarterly, or 18350
annually as may be determined by the state board of education: 18351

(A) A per pupil amount to each school district that 18352
establishes a summer school remediation program that complies with 18353
rules of the state board of education. 18354

(B) An amount for each island school district and each joint 18355
state school district for the operation of each high school and 18356
each elementary school maintained within such district and for 18357
capital improvements for such schools. Such amounts shall be 18358

determined on the basis of standards adopted by the state board of education. 18359
18360

(C) An amount for each school district operating classes for children of migrant workers who are unable to be in attendance in an Ohio school during the entire regular school year. The amounts shall be determined on the basis of standards adopted by the state board of education, except that payment shall be made only for subjects regularly offered by the school district providing the classes. 18361
18362
18363
18364
18365
18366
18367

(D) An amount for each school district with guidance, testing, and counseling programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education. 18368
18369
18370
18371

(E) An amount for the emergency purchase of school buses as provided for in section 3317.07 of the Revised Code; 18372
18373

(F) An amount for each school district required to pay tuition for a child in an institution maintained by the department of youth services pursuant to section 3317.082 of the Revised Code, provided the child was not included in the calculation of the district's average daily membership for the preceding school year. 18374
18375
18376
18377
18378
18379

(G) In fiscal year 2000 only, an amount to each school district for supplemental salary allowances for each licensed employee except those licensees serving as superintendents, assistant superintendents, principals, or assistant principals, whose term of service in any year is extended beyond the term of service of regular classroom teachers, as described in section 3301.0725 of the Revised Code; 18380
18381
18382
18383
18384
18385
18386

(H) An amount for adult basic literacy education for each district participating in programs approved by the state board of education. The amount shall be determined on the basis of 18387
18388
18389

standards adopted by the state board of education. 18390

(I) Notwithstanding section 3317.01 of the Revised Code, but 18391
only until June 30, 1999, to each city, local, and exempted 18392
village school district, an amount for conducting driver education 18393
courses at high schools for which the state board of education 18394
prescribes minimum standards and to joint vocational and 18395
cooperative education school districts and educational service 18396
centers, an amount for conducting driver education courses to 18397
pupils enrolled in a high school for which the state board 18398
prescribes minimum standards. No payments shall be made under this 18399
division after June 30, 1999. 18400

(J) An amount for the approved cost of transporting 18401
developmentally handicapped pupils whom it is impossible or 18402
impractical to transport by regular school bus in the course of 18403
regular route transportation provided by the district or service 18404
center. No district or service center is eligible to receive a 18405
payment under this division for the cost of transporting any pupil 18406
whom it transports by regular school bus and who is included in 18407
the district's transportation ADM. The state board of education 18408
shall establish standards and guidelines for use by the department 18409
of education in determining the approved cost of such 18410
transportation for each district or service center. 18411

(K) An amount to each school district, including each 18412
cooperative education school district, pursuant to section 3313.81 18413
of the Revised Code to assist in providing free lunches to needy 18414
children and an amount to assist needy school districts in 18415
purchasing necessary equipment for food preparation. The amounts 18416
shall be determined on the basis of rules adopted by the state 18417
board of education. 18418

(L) An amount to each school district, for each pupil 18419
attending a chartered nonpublic elementary or high school within 18420
the district. The amount shall equal the amount appropriated for 18421

the implementation of section 3317.06 of the Revised Code divided 18422
by the average daily membership in grades kindergarten through 18423
twelve in nonpublic elementary and high schools within the state 18424
as determined during the first full week in October of each school 18425
year. 18426

(M) An amount for each county MR/DD board, distributed on the 18427
basis of standards adopted by the state board of education, for 18428
the approved cost of transportation required for children 18429
attending special education programs operated by the county MR/DD 18430
board under section 3323.09 of the Revised Code; 18431

(N) An amount for each county MR/DD board, distributed on the 18432
basis of standards adopted by the state board of education, for 18433
supportive home services for preschool children; 18434

(O) An amount for each school district that establishes a 18435
mentor teacher program that complies with rules of the state board 18436
of education. No school district shall be required to establish or 18437
maintain such a program in any year unless sufficient funds are 18438
appropriated to cover the district's total costs for the program. 18439

(P) An amount to each school district or educational service 18440
center for the total number of gifted units approved pursuant to 18441
section 3317.05 of the Revised Code. The amount for each such unit 18442
shall be the sum of the minimum salary for the teacher of the 18443
unit, calculated on the basis of the teacher's training level and 18444
years of experience pursuant to the salary schedule prescribed in 18445
the version of section 3317.13 of the Revised Code in effect prior 18446
to ~~the effective date of this amendment~~ July 1, 2001, plus fifteen 18447
per cent of that minimum salary amount, plus two thousand six 18448
hundred seventy-eight dollars. 18449

(Q) An amount to each institution defined under section 18450
3317.082 of the Revised Code providing elementary or secondary 18451
education to children other than children receiving special 18452

education under section 3323.091 of the Revised Code. This amount 18453
for any institution in any fiscal year shall equal the total of 18454
all tuition amounts required to be paid to the institution under 18455
division (A)(1) of section 3317.082 of the Revised Code. 18456

(R) A grant to each school district and joint vocational 18457
school district that operates a "graduation, reality, and 18458
dual-role skills" (GRADS) program for pregnant and parenting 18459
students that is approved by the department. The amount of the 18460
payment shall be the district's state share percentage, as defined 18461
in section 3317.022 or 3317.16 of the Revised Code, times the 18462
GRADS personnel allowance times the full-time-equivalent number of 18463
GRADS teachers approved by the department. The GRADS personnel 18464
allowance is ~~\$46,260~~ \$47,555 in fiscal years ~~2002 and 2003~~ year 18465
2004. 18466

The state board of education or any other board of education 18467
or governing board may provide for any resident of a district or 18468
educational service center territory any educational service for 18469
which funds are made available to the board by the United States 18470
under the authority of public law, whether such funds come 18471
directly or indirectly from the United States or any agency or 18472
department thereof or through the state or any agency, department, 18473
or political subdivision thereof. 18474

Sec. 3317.029. (A) As used in this section: 18475

(1) "DPIA percentage" means: 18476

(a) In fiscal years prior to fiscal year 2004, the quotient 18477
obtained by dividing the five-year average number of children ages 18478
five to seventeen residing in the school district and living in a 18479
family receiving assistance under the Ohio works first program or 18480
an antecedent program known as TANF or ADC, as certified or 18481
adjusted under section 3317.10 of the Revised Code, by the 18482
district's three-year average formula ADM. 18483

(b) Beginning in fiscal year 2004, the unduplicated number of children ages five to seventeen residing in the school district and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, as certified or adjusted under section 3317.10 of the Revised Code, divided by the district's three-year average formula ADM.

(2) "Family assistance" means assistance received under one of the following:

(a) The Ohio works first program;

(b) The food stamp program;

(c) The medical assistance program, including the healthy start program, established under Chapter 5111. of the Revised Code;

(d) The children's health insurance program part I established under section 5101.50 of the Revised Code or, prior to fiscal year 2000, an executive order issued under section 107.17 of the Revised Code;

(e) The disability financial assistance program established under Chapter 5115. of the Revised Code;

(f) The disability medical assistance program established under Chapter 5115. of the Revised Code.

(3) "Statewide DPIA percentage" means:

(a) In fiscal years prior to fiscal year 2004, the five-year average of the total number of children ages five to seventeen years residing in the state and receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, divided by the sum of the three-year average formula ADMs for all school districts in the state.

(b) Beginning in fiscal year 2004, the total unduplicated number of children ages five to seventeen residing in the state

and living in a family that has family income not exceeding the 18514
federal poverty guidelines and that receives family assistance, 18515
divided by the sum of the three-year average formula ADMs for all 18516
school districts in the state. 18517

(4) "DPIA index" means the quotient obtained by dividing the 18518
school district's DPIA percentage by the statewide DPIA 18519
percentage. 18520

(5) "Federal poverty guidelines" has the same meaning as in 18521
section 5101.46 of the Revised Code. 18522

(6) "DPIA student count" means: 18523

(a) In fiscal years prior to fiscal year 2004, the five-year 18524
average number of children ages five to seventeen residing in the 18525
school district and living in a family receiving assistance under 18526
the Ohio works first program or an antecedent program known as 18527
TANF or ADC, as certified under section 3317.10 of the Revised 18528
Code; 18529

(b) Beginning in fiscal year 2004, the unduplicated number of 18530
children ages five to seventeen residing in the school district 18531
and living in a family that has family income not exceeding the 18532
federal poverty guidelines and that receives family assistance, as 18533
certified or adjusted under section 3317.10 of the Revised Code. 18534

(7) "Kindergarten ADM" means the number of students reported 18535
under section 3317.03 of the Revised Code as enrolled in 18536
kindergarten. 18537

(8) "Kindergarten through third grade ADM" means the amount 18538
calculated as follows: 18539

(a) Multiply the kindergarten ADM by the sum of one plus the 18540
all-day kindergarten percentage; 18541

(b) Add the number of students in grades one through three; 18542

(c) Subtract from the sum calculated under division (A)(6)(b) 18543

of this section the number of special education students in grades 18544
kindergarten through three. 18545

(9) "Statewide average teacher salary" means ~~forty-two~~ 18546
~~thousand four hundred sixty-nine dollars in fiscal year 2002, and~~ 18547
~~forty-three~~ forty-four thousand ~~six~~ eight hundred ~~fifty-eight~~ 18548
eighty dollars in fiscal year ~~2003~~ 2004, which includes an amount 18549
for the value of fringe benefits. 18550

(10) "All-day kindergarten" means a kindergarten class that 18551
is in session five days per week for not less than the same number 18552
of clock hours each day as for pupils in grades one through six. 18553

(11) "All-day kindergarten percentage" means the percentage 18554
of a district's actual total number of students enrolled in 18555
kindergarten who are enrolled in all-day kindergarten. 18556

(12) "Buildings with the highest concentration of need" 18557
means: 18558

(a) In fiscal years prior to fiscal year 2004, the school 18559
buildings in a district with percentages of students in grades 18560
kindergarten through three receiving assistance under Ohio works 18561
first at least as high as the district-wide percentage of students 18562
receiving such assistance. 18563

(b) Beginning in fiscal year 2004, the school buildings in a 18564
district with percentages of students in grades kindergarten 18565
through three receiving family assistance at least as high as the 18566
district-wide percentage of students receiving family assistance. 18567

(c) If, in any fiscal year, the information provided by the 18568
department of job and family services under section 3317.10 of the 18569
Revised Code is insufficient to determine the Ohio works first or 18570
family assistance percentage in each building, "buildings with the 18571
highest concentration of need" has the meaning given in rules that 18572
the department of education shall adopt. The rules shall base the 18573
definition of "buildings with the highest concentration of need" 18574

on family income of students in grades kindergarten through three 18575
in a manner that, to the extent possible with available data, 18576
approximates the intent of this division and division (G) of this 18577
section to designate buildings where the Ohio works first or 18578
family assistance percentage in those grades equals or exceeds the 18579
district-wide Ohio works first or family assistance percentage. 18580

(B) In addition to the amounts required to be paid to a 18581
school district under section 3317.022 of the Revised Code, a 18582
school district shall receive the greater of the amount the 18583
district received in fiscal year 1998 pursuant to division (B) of 18584
section 3317.023 of the Revised Code as it existed at that time or 18585
the sum of the computations made under divisions (C) to (E) of 18586
this section. 18587

(C) A supplemental payment that may be utilized for measures 18588
related to safety and security and for remediation or similar 18589
programs, calculated as follows: 18590

(1) If the DPIA index of the school district is greater than 18591
or equal to thirty-five-hundredths, but less than one, an amount 18592
obtained by multiplying the district's DPIA student count by two 18593
hundred thirty dollars; 18594

(2) If the DPIA index of the school district is greater than 18595
or equal to one, an amount obtained by multiplying the DPIA index 18596
by two hundred thirty dollars and multiplying that product by the 18597
district's DPIA student count. 18598

Except as otherwise provided in division (F) of this section, 18599
beginning with the school year that starts July 1, 2002, each 18600
school district annually shall use at least twenty per cent of the 18601
funds calculated for the district under this division for 18602
intervention services required by section 3313.608 of the Revised 18603
Code. 18604

(D) A payment for all-day kindergarten if the DPIA index of 18605

the school district is greater than or equal to one or if the 18606
district's three-year average formula ADM exceeded seventeen 18607
thousand five hundred, calculated by multiplying the all-day 18608
kindergarten percentage by the kindergarten ADM and multiplying 18609
that product by the formula amount. 18610

(E) A class-size reduction payment based on calculating the 18611
number of new teachers necessary to achieve a lower 18612
student-teacher ratio, as follows: 18613

(1) Determine or calculate a formula number of teachers per 18614
one thousand students based on the DPIA index of the school 18615
district as follows: 18616

(a) If the DPIA index of the school district is less than 18617
six-tenths, the formula number of teachers is 43.478, which is the 18618
number of teachers per one thousand students at a student-teacher 18619
ratio of twenty-three to one; 18620

(b) If the DPIA index of the school district is greater than 18621
or equal to six-tenths, but less than two and one-half, the 18622
formula number of teachers is calculated as follows: 18623

$$43.478 + \{[(\text{DPIA index} - 0.6) / 1.9] \times 23.188\} \quad 18624$$

Where 43.478 is the number of teachers per one thousand 18625
students at a student-teacher ratio of twenty-three to one; 1.9 is 18626
the interval from a DPIA index of six-tenths to a DPIA index of 18627
two and one-half; and 23.188 is the difference in the number of 18628
teachers per one thousand students at a student-teacher ratio of 18629
fifteen to one and the number of teachers per one thousand 18630
students at a student-teacher ratio of twenty-three to one. 18631

(c) If the DPIA index of the school district is greater than 18632
or equal to two and one-half, the formula number of teachers is 18633
66.667, which is the number of teachers per one thousand students 18634
at a student-teacher ratio of fifteen to one. 18635

(2) Multiply the formula number of teachers determined or 18636

calculated in division (E)(1) of this section by the kindergarten 18637
through third grade ADM for the district and divide that product 18638
by one thousand; 18639

(3) Calculate the number of new teachers as follows: 18640

(a) Multiply the kindergarten through third grade ADM by 18641
43.478, which is the number of teachers per one thousand students 18642
at a student-teacher ratio of twenty-three to one, and divide that 18643
product by one thousand; 18644

(b) Subtract the quotient obtained in division (E)(3)(a) of 18645
this section from the product in division (E)(2) of this section. 18646

(4) Multiply the greater of the difference obtained under 18647
division (E)(3) of this section or zero by the statewide average 18648
teachers salary. 18649

(F) This division applies only to school districts whose DPIA 18650
index is one or greater. 18651

(1) Each school district subject to this division shall first 18652
utilize funds received under this section so that, when combined 18653
with other funds of the district, sufficient funds exist to 18654
provide all-day kindergarten to at least the number of children in 18655
the district's all-day kindergarten percentage. 18656

(2) Up to an amount equal to the district's DPIA index 18657
multiplied by its DPIA student count multiplied by two hundred 18658
thirty dollars of the money distributed under this section may be 18659
utilized for one or both of the following: 18660

(a) Programs designed to ensure that schools are free of 18661
drugs and violence and have a disciplined environment conducive to 18662
learning; 18663

(b) Remediation for students who have failed or are in danger 18664
of failing any of the tests administered pursuant to section 18665
3301.0710 of the Revised Code. 18666

Beginning with the school year that starts on July 1, 2002, 18667
each school district shall use at least twenty per cent of the 18668
funds set aside for the purposes of divisions (F)(2)(a) and (b) of 18669
this section to provide intervention services required by section 18670
3313.608 of the Revised Code. 18671

(3) Except as otherwise required by division (G) or permitted 18672
under division (K) of this section, all other funds distributed 18673
under this section to districts subject to this division shall be 18674
utilized for the purpose of the third grade guarantee. The third 18675
grade guarantee consists of increasing the amount of instructional 18676
attention received per pupil in kindergarten through third grade, 18677
either by reducing the ratio of students to instructional 18678
personnel or by increasing the amount of instruction and 18679
curriculum-related activities by extending the length of the 18680
school day or the school year. 18681

School districts may implement a reduction of the ratio of 18682
students to instructional personnel through any or all of the 18683
following methods: 18684

(a) Reducing the number of students in a classroom taught by 18685
a single teacher; 18686

(b) Employing full-time educational aides or educational 18687
paraprofessionals issued a permit or license under section 18688
3319.088 of the Revised Code; 18689

(c) Instituting a team-teaching method that will result in a 18690
lower student-teacher ratio in a classroom. 18691

Districts may extend the school day either by increasing the 18692
amount of time allocated for each class, increasing the number of 18693
classes provided per day, offering optional academic-related 18694
after-school programs, providing curriculum-related extra 18695
curricular activities, or establishing tutoring or remedial 18696
services for students who have demonstrated an educational need. 18697

In accordance with section 3319.089 of the Revised Code, a 18698
district extending the school day pursuant to this division may 18699
utilize a participant of the work experience program who has a 18700
child enrolled in a public school in that district and who is 18701
fulfilling the work requirements of that program by volunteering 18702
or working in that public school. If the work experience program 18703
participant is compensated, the school district may use the funds 18704
distributed under this section for all or part of the 18705
compensation. 18706

Districts may extend the school year either through adding 18707
regular days of instruction to the school calendar or by providing 18708
summer programs. 18709

(G) Each district subject to division (F) of this section 18710
shall not expend any funds received under division (E) of this 18711
section in any school buildings that are not buildings with the 18712
highest concentration of need, unless there is a ratio of 18713
instructional personnel to students of no more than fifteen to one 18714
in each kindergarten and first grade class in all buildings with 18715
the highest concentration of need. This division does not require 18716
that the funds used in buildings with the highest concentration of 18717
need be spent solely to reduce the ratio of instructional 18718
personnel to students in kindergarten and first grade. A school 18719
district may spend the funds in those buildings in any manner 18720
permitted by division (F)(3) of this section, but may not spend 18721
the money in other buildings unless the fifteen-to-one ratio 18722
required by this division is attained. 18723

(H)(1) By the first day of August of each fiscal year, each 18724
school district wishing to receive any funds under division (D) of 18725
this section shall submit to the department of education an 18726
estimate of its all-day kindergarten percentage. Each district 18727
shall update its estimate throughout the fiscal year in the form 18728
and manner required by the department, and the department shall 18729

adjust payments under this section to reflect the updates. 18730

(2) Annually by the end of December, the department of 18731
education, utilizing data from the information system established 18732
under section 3301.0714 of the Revised Code and after consultation 18733
with the legislative office of education oversight, shall 18734
determine for each school district subject to division (F) of this 18735
section whether in the preceding fiscal year the district's ratio 18736
of instructional personnel to students and its number of 18737
kindergarten students receiving all-day kindergarten appear 18738
reasonable, given the amounts of money the district received for 18739
that fiscal year pursuant to divisions (D) and (E) of this 18740
section. If the department is unable to verify from the data 18741
available that students are receiving reasonable amounts of 18742
instructional attention and all-day kindergarten, given the funds 18743
the district has received under this section and that class-size 18744
reduction funds are being used in school buildings with the 18745
highest concentration of need as required by division (G) of this 18746
section, the department shall conduct a more intensive 18747
investigation to ensure that funds have been expended as required 18748
by this section. The department shall file an annual report of its 18749
findings under this division with the chairpersons of the 18750
committees in each house of the general assembly dealing with 18751
finance and education. 18752

(I) Any school district with a DPIA index less than one and a 18753
three-year average formula ADM exceeding seventeen thousand five 18754
hundred shall first utilize funds received under this section so 18755
that, when combined with other funds of the district, sufficient 18756
funds exist to provide all-day kindergarten to at least the number 18757
of children in the district's all-day kindergarten percentage. 18758
Such a district shall expend at least seventy per cent of the 18759
remaining funds received under this section, and any other 18760
district with a DPIA index less than one shall expend at least 18761

seventy per cent of all funds received under this section, for any	18762
of the following purposes:	18763
(1) The purchase of technology for instructional purposes;	18764
(2) All-day kindergarten;	18765
(3) Reduction of class sizes;	18766
(4) Summer school remediation;	18767
(5) Dropout prevention programs;	18768
(6) Guaranteeing that all third graders are ready to progress	18769
to more advanced work;	18770
(7) Summer education and work programs;	18771
(8) Adolescent pregnancy programs;	18772
(9) Head start or preschool programs;	18773
(10) Reading improvement programs described by the department	18774
of education;	18775
(11) Programs designed to ensure that schools are free of	18776
drugs and violence and have a disciplined environment conducive to	18777
learning;	18778
(12) Furnishing, free of charge, materials used in courses of	18779
instruction, except for the necessary textbooks or electronic	18780
textbooks required to be furnished without charge pursuant to	18781
section 3329.06 of the Revised Code, to pupils living in families	18782
participating in Ohio works first in accordance with section	18783
3313.642 of the Revised Code;	18784
(13) School breakfasts provided pursuant to section 3313.813	18785
of the Revised Code.	18786
Each district shall submit to the department, in such format	18787
and at such time as the department shall specify, a report on the	18788
programs for which it expended funds under this division.	18789

(J) If at any time the superintendent of public instruction determines that a school district receiving funds under division (D) of this section has enrolled less than the all-day kindergarten percentage reported for that fiscal year, the superintendent shall withhold from the funds otherwise due the district under this section a proportional amount as determined by the difference in the certified all-day kindergarten percentage and the percentage actually enrolled in all-day kindergarten.

The superintendent shall also withhold an appropriate amount of funds otherwise due a district for any other misuse of funds not in accordance with this section.

(K)(1) A district may use a portion of the funds calculated for it under division (D) of this section to modify or purchase classroom space to provide all-day kindergarten, if both of the following conditions are met:

(a) The district certifies to the department, in a manner acceptable to the department, that it has a shortage of space for providing all-day kindergarten.

(b) The district provides all-day kindergarten to the number of children in the all-day kindergarten percentage it certified under this section.

(2) A district may use a portion of the funds described in division (F)(3) of this section to modify or purchase classroom space to enable it to further reduce class size in grades kindergarten through two with a goal of attaining class sizes of fifteen students per licensed teacher. To do so, the district must certify its need for additional space to the department, in a manner satisfactory to the department.

Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and (C) of this section, any student enrolled in kindergarten more

than half time shall be reported as one-half student under this section. 18820
18821

(A) The superintendent of each city and exempted village school district and of each educational service center shall, for the schools under the superintendent's supervision, certify to the state board of education on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, which shall consist of the average daily membership during such week of the sum of the following: 18822
18823
18824
18825
18826
18827
18828

(1) On an FTE basis, the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination: 18829
18830
18831
18832

(a) Students enrolled in adult education classes; 18833

(b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code; 18834
18835
18836

~~(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;~~ 18837
18838
18839
18840

~~(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.~~ 18841
18842

(2) On an FTE basis, the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but receiving educational services in grades kindergarten through twelve from one or more of the following entities: 18843
18844
18845
18846
18847

(a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to 18848
18849

Chapter 3365. of the Revised Code while enrolled in such community school;	18850 18851
(b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;	18852 18853 18854
(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code;	18855 18856 18857 18858
(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;	18859 18860 18861
(e) An educational service center or cooperative education district;	18862 18863
(f) Another school district under a cooperative education agreement, compact, or contract.	18864 18865
(3) One-fourth of the number of students enrolled in a joint vocational school district or under a vocational education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a vocational education compact;	18866 18867 18868 18869 18870 18871 18872 18873
(4) The number of handicapped children, other than handicapped preschool children, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed with a county MR/DD board, minus the number of such children placed with a county MR/DD board in fiscal year 1998. If this calculation produces a negative number, the number reported under division (A)(4) of this section shall be zero.	18874 18875 18876 18877 18878 18879 18880

(B) To enable the department of education to obtain the data 18881
needed to complete the calculation of payments pursuant to this 18882
chapter, in addition to the formula ADM, each superintendent shall 18883
report separately the following student counts: 18884

(1) The total average daily membership in regular day classes 18885
included in the report under division (A)(1) or (2) of this 18886
section for kindergarten, and each of grades one through twelve in 18887
schools under the superintendent's supervision; 18888

(2) The number of all handicapped preschool children enrolled 18889
as of the first day of December in classes in the district that 18890
are eligible for approval ~~by the state board of education~~ under 18891
division (B) of section 3317.05 of the Revised Code and the number 18892
of those classes, which shall be reported not later than the 18893
fifteenth day of December, in accordance with rules adopted under 18894
that section; 18895

(3) The number of children entitled to attend school in the 18896
district pursuant to section 3313.64 or 3313.65 of the Revised 18897
Code who are participating in a pilot project scholarship program 18898
established under sections 3313.974 to 3313.979 of the Revised 18899
Code as described in division (I)(2)(a) or (b) of this section, 18900
are enrolled in a college under Chapter 3365. of the Revised Code, 18901
except when the student is enrolled in the college while also 18902
enrolled in a community school pursuant to Chapter 3314. of the 18903
Revised Code, are enrolled in an adjacent or other school district 18904
under section 3313.98 of the Revised Code, are enrolled in a 18905
community school established under Chapter 3314. of the Revised 18906
Code, including any participation in a college pursuant to Chapter 18907
3365. of the Revised Code while enrolled in such community school, 18908
or are participating in a program operated by a county MR/DD board 18909
or a state institution; 18910

(4) The number of pupils enrolled in joint vocational 18911

schools;	18912
(5) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;	18913 18914 18915 18916
(6) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code;	18917 18918 18919 18920
(7) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;	18921 18922 18923 18924
(8) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;	18925 18926 18927 18928
(9) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;	18929 18930 18931 18932
(10) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code;	18933 18934 18935 18936
(11) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category one vocational education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district, other than a joint vocational school district, or by an educational service center;	18937 18938 18939 18940 18941 18942

(12) The average daily membership of pupils reported under	18943
division (A)(1) or (2) of this section enrolled in category two	18944
vocational education programs or services, described in division	18945
(B) of section 3317.014 of the Revised Code, operated by the	18946
school district or another school district, other than a joint	18947
vocational school district, or by an educational service center;	18948
(13) The average number of children transported by the school	18949
district on board-owned or contractor-owned and -operated buses,	18950
reported in accordance with rules adopted by the department of	18951
education;	18952
(14)(a) The number of children, other than handicapped	18953
preschool children, the district placed with a county MR/DD board	18954
in fiscal year 1998;	18955
(b) The number of handicapped children, other than	18956
handicapped preschool children, placed with a county MR/DD board	18957
in the current fiscal year to receive special education services	18958
for the category one handicap described in division (A) of section	18959
3317.013 of the Revised Code;	18960
(c) The number of handicapped children, other than	18961
handicapped preschool children, placed with a county MR/DD board	18962
in the current fiscal year to receive special education services	18963
for category two handicaps described in division (B) of section	18964
3317.013 of the Revised Code;	18965
(d) The number of handicapped children, other than	18966
handicapped preschool children, placed with a county MR/DD board	18967
in the current fiscal year to receive special education services	18968
for category three handicaps described in division (C) of section	18969
3317.013 of the Revised Code;	18970
(e) The number of handicapped children, other than	18971
handicapped preschool children, placed with a county MR/DD board	18972
in the current fiscal year to receive special education services	18973

for category four handicaps described in division (D) of section 18974
3317.013 of the Revised Code; 18975

(f) The number of handicapped children, other than 18976
handicapped preschool children, placed with a county MR/DD board 18977
in the current fiscal year to receive special education services 18978
for the category five handicap described in division (E) of 18979
section 3317.013 of the Revised Code; 18980

(g) The number of handicapped children, other than 18981
handicapped preschool children, placed with a county MR/DD board 18982
in the current fiscal year to receive special education services 18983
for category six handicaps described in division (F) of section 18984
3317.013 of the Revised Code. 18985

(C)(1) Except as otherwise provided in this section for 18986
kindergarten students, the average daily membership in divisions 18987
(B)(1) to (12) of this section shall be based upon the number of 18988
full-time equivalent students. The state board of education shall 18989
adopt rules defining full-time equivalent students and for 18990
determining the average daily membership therefrom for the 18991
purposes of divisions (A), (B), and (D) of this section. 18992

(2) A student enrolled in a community school established 18993
under Chapter 3314. of the Revised Code shall be counted in the 18994
formula ADM and, if applicable, the category one, two, three, 18995
four, five, or six special education ADM of the school district in 18996
which the student is entitled to attend school under section 18997
3313.64 or 3313.65 of the Revised Code for the same proportion of 18998
the school year that the student is counted in the enrollment of 18999
the community school for purposes of section 3314.08 of the 19000
Revised Code. 19001

(3) No child shall be counted as more than a total of one 19002
child in the sum of the average daily memberships of a school 19003
district under division (A), divisions (B)(1) to (12), or division 19004

(D) of this section, except as follows: 19005

(a) A child with a handicap described in section 3317.013 of 19006
the Revised Code may be counted both in formula ADM and in 19007
category one, two, three, four, five, or six special education ADM 19008
and, if applicable, in category one or two vocational education 19009
ADM. As provided in division (C) of section 3317.02 of the Revised 19010
Code, such a child shall be counted in category one, two, three, 19011
four, five, or six special education ADM in the same proportion 19012
that the child is counted in formula ADM. 19013

(b) A child enrolled in vocational education programs or 19014
classes described in section 3317.014 of the Revised Code may be 19015
counted both in formula ADM and category one or two vocational 19016
education ADM and, if applicable, in category one, two, three, 19017
four, five, or six special education ADM. Such a child shall be 19018
counted in category one or two vocational education ADM in the 19019
same proportion as the percentage of time that the child spends in 19020
the vocational education programs or classes. 19021

(4) Based on the information reported under this section, the 19022
department of education shall determine the total student count, 19023
as defined in section 3301.011 of the Revised Code, for each 19024
school district. 19025

(D)(1) The superintendent of each joint vocational school 19026
district shall certify to the superintendent of public instruction 19027
on or before the fifteenth day of October in each year for the 19028
first full school week in October the formula ADM, which, except 19029
as otherwise provided in this division, shall consist of the 19030
average daily membership during such week, on an FTE basis, of the 19031
number of students receiving any educational services from the 19032
district, including students enrolled in a community school 19033
established under Chapter 3314. of the Revised Code who are 19034
attending the joint vocational district under an agreement between 19035
the district board of education and the governing authority of the 19036

community school and are entitled to attend school in a city, 19037
local, or exempted village school district whose territory is part 19038
of the territory of the joint vocational district. 19039

The following categories of students shall not be included in 19040
the determination made under division (D)(1) of this section: 19041

(a) Students enrolled in adult education classes; 19042

(b) Adjacent or other district joint vocational students 19043
enrolled in the district under an open enrollment policy pursuant 19044
to section 3313.98 of the Revised Code; 19045

(c) Students receiving services in the district pursuant to a 19046
compact, cooperative education agreement, or a contract, but who 19047
are entitled to attend school in a city, local, or exempted 19048
village school district whose territory is not part of the 19049
territory of the joint vocational district; 19050

(d) Students for whom tuition is payable pursuant to sections 19051
3317.081 and 3323.141 of the Revised Code. 19052

(2) To enable the department of education to obtain the data 19053
needed to complete the calculation of payments pursuant to this 19054
chapter, in addition to the formula ADM, each superintendent shall 19055
report separately the average daily membership included in the 19056
report under division (D)(1) of this section for each of the 19057
following categories of students: 19058

(a) Students enrolled in each grade included in the joint 19059
vocational district schools; 19060

(b) Handicapped children receiving special education services 19061
for the category one handicap described in division (A) of section 19062
3317.013 of the Revised Code; 19063

(c) Handicapped children receiving special education services 19064
for the category two handicaps described in division (B) of 19065
section 3317.013 of the Revised Code; 19066

(d) Handicapped children receiving special education services	19067
for category three handicaps described in division (C) of section	19068
3317.013 of the Revised Code;	19069
(e) Handicapped children receiving special education services	19070
for category four handicaps described in division (D) of section	19071
3317.013 of the Revised Code;	19072
(f) Handicapped children receiving special education services	19073
for the category five handicap described in division (E) of	19074
section 3317.013 of the Revised Code;	19075
(g) Handicapped children receiving special education services	19076
for category six handicaps described in division (F) of section	19077
3317.013 of the Revised Code;	19078
(h) Students receiving category one vocational education	19079
services, described in division (A) of section 3317.014 of the	19080
Revised Code;	19081
(i) Students receiving category two vocational education	19082
services, described in division (B) of section 3317.014 of the	19083
Revised Code.	19084
The superintendent of each joint vocational school district	19085
shall also indicate the city, local, or exempted village school	19086
district in which each joint vocational district pupil is entitled	19087
to attend school pursuant to section 3313.64 or 3313.65 of the	19088
Revised Code.	19089
(E) In each school of each city, local, exempted village,	19090
joint vocational, and cooperative education school district there	19091
shall be maintained a record of school membership, which record	19092
shall accurately show, for each day the school is in session, the	19093
actual membership enrolled in regular day classes. For the purpose	19094
of determining average daily membership, the membership figure of	19095
any school shall not include any pupils except those pupils	19096

described by division (A) of this section. The record of 19097
membership for each school shall be maintained in such manner that 19098
no pupil shall be counted as in membership prior to the actual 19099
date of entry in the school and also in such manner that where for 19100
any cause a pupil permanently withdraws from the school that pupil 19101
shall not be counted as in membership from and after the date of 19102
such withdrawal. There shall not be included in the membership of 19103
any school any of the following: 19104

(1) Any pupil who has graduated from the twelfth grade of a 19105
public high school; 19106

(2) Any pupil who is not a resident of the state; 19107

(3) Any pupil who was enrolled in the schools of the district 19108
during the previous school year when tests were administered under 19109
section 3301.0711 of the Revised Code but did not take one or more 19110
of the tests required by that section and was not excused pursuant 19111
to division (C)(1) of that section; 19112

(4) Any pupil who has attained the age of twenty-two years, 19113
except for veterans of the armed services whose attendance was 19114
interrupted before completing the recognized twelve-year course of 19115
the public schools by reason of induction or enlistment in the 19116
armed forces and who apply for reenrollment in the public school 19117
system of their residence not later than four years after 19118
termination of war or their honorable discharge. 19119

If, however, any veteran described by division (E)(4) of this 19120
section elects to enroll in special courses organized for veterans 19121
for whom tuition is paid under the provisions of federal laws, or 19122
otherwise, that veteran shall not be included in average daily 19123
membership. 19124

Notwithstanding division (E)(3) of this section, the 19125
membership of any school may include a pupil who did not take a 19126
test required by section 3301.0711 of the Revised Code if the 19127

superintendent of public instruction grants a waiver from the 19128
requirement to take the test to the specific pupil. The 19129
superintendent may grant such a waiver only for good cause in 19130
accordance with rules adopted by the state board of education. 19131

Except as provided in divisions (B)(2) and (F) of this 19132
section, the average daily membership figure of any local, city, 19133
exempted village, or joint vocational school district shall be 19134
determined by dividing the figure representing the sum of the 19135
number of pupils enrolled during each day the school of attendance 19136
is actually open for instruction during the first full school week 19137
in October by the total number of days the school was actually 19138
open for instruction during that week. For purposes of state 19139
funding, "enrolled" persons are only those pupils who are 19140
attending school, those who have attended school during the 19141
current school year and are absent for authorized reasons, and 19142
those handicapped children currently receiving home instruction. 19143

The average daily membership figure of any cooperative 19144
education school district shall be determined in accordance with 19145
rules adopted by the state board of education. 19146

(F)(1) If the formula ADM for the first full school week in 19147
February is at least three per cent greater than that certified 19148
for the first full school week in the preceding October, the 19149
superintendent of schools of any city, exempted village, or joint 19150
vocational school district or educational service center shall 19151
certify such increase to the superintendent of public instruction. 19152
Such certification shall be submitted no later than the fifteenth 19153
day of February. For the balance of the fiscal year, beginning 19154
with the February payments, the superintendent of public 19155
instruction shall use the increased formula ADM in calculating or 19156
recalculating the amounts to be allocated in accordance with 19157
section 3317.022 or 3317.16 of the Revised Code. In no event shall 19158
the superintendent use an increased membership certified to the 19159

superintendent after the fifteenth day of February. 19160

(2) If on the first school day of April the total number of 19161
classes or units for handicapped preschool children that are 19162
eligible for approval under division (B) of section 3317.05 of the 19163
Revised Code exceeds the number of units that have been approved 19164
for the year under that division, the superintendent of schools of 19165
any city, exempted village, or cooperative education school 19166
district or educational service center shall make the 19167
certifications required by this section for that day. If the ~~state~~ 19168
~~board of education~~ department determines additional units can be 19169
approved for the fiscal year within any limitations set forth in 19170
the acts appropriating moneys for the funding of such units, the 19171
~~board~~ department shall approve additional units for the fiscal 19172
year on the basis of such average daily membership. For each unit 19173
so approved, the department ~~of education~~ shall pay an amount 19174
computed in the manner prescribed in section 3317.052 or 3317.19 19175
and section 3317.053 of the Revised Code. 19176

(3) If a student attending a community school under Chapter 19177
3314. of the Revised Code is not included in the formula ADM 19178
certified for the first full school week of October for the school 19179
district in which the student is entitled to attend school under 19180
section 3313.64 or 3313.65 of the Revised Code, the department of 19181
education shall adjust the formula ADM of that school district to 19182
include the community school student in accordance with division 19183
(C)(2) of this section, and shall recalculate the school 19184
district's payments under this chapter for the entire fiscal year 19185
on the basis of that adjusted formula ADM. This requirement 19186
applies regardless of whether the student was enrolled, as defined 19187
in division (E) of this section, in the community school during 19188
the first full school week in October. 19189

(G)(1)(a) The superintendent of an institution operating a 19190
special education program pursuant to section 3323.091 of the 19191

Revised Code shall, for the programs under such superintendent's supervision, certify to the state board of education the average daily membership of all handicapped children in classes or programs approved annually by the ~~state board~~ department of education, in the manner prescribed by the superintendent of public instruction.

(b) The superintendent of an institution with vocational education units approved under division (A) of section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the average daily membership in those units, in the manner prescribed by the superintendent of public instruction.

(2) The superintendent of each county MR/DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved ~~by the state board of education~~ pursuant to section 3317.05 of the Revised Code shall do both of the following:

(a) Certify to the state board, in the manner prescribed by the board, the average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes;

(b) Certify to the stateboard, in the manner prescribed by the board, the number of all handicapped preschool children enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes.

(3)(a) If on the first school day of April the number of classes or units maintained for handicapped preschool children by the county MR/DD board that are eligible for approval under division (B) of section 3317.05 of the Revised Code is greater than the number of units approved for the year under that

division, the superintendent shall make the certification required 19223
by this section for that day. 19224

(b) If the ~~state board~~ department determines that additional 19225
classes or units can be approved for the fiscal year within any 19226
limitations set forth in the acts appropriating moneys for the 19227
funding of the classes and units described in division (G)(3)(a) 19228
of this section, the ~~board~~ department shall approve and fund 19229
additional units for the fiscal year on the basis of such average 19230
daily membership. For each unit so approved, the department ~~of~~ 19231
~~education~~ shall pay an amount computed in the manner prescribed in 19232
sections 3317.052 and 3317.053 of the Revised Code. 19233

(H) Except as provided in division (I) of this section, when 19234
any city, local, or exempted village school district provides 19235
instruction for a nonresident pupil whose attendance is 19236
unauthorized attendance as defined in section 3327.06 of the 19237
Revised Code, that pupil's membership shall not be included in 19238
that district's membership figure used in the calculation of that 19239
district's formula ADM or included in the determination of any 19240
unit approved for the district under section 3317.05 of the 19241
Revised Code. The reporting official shall report separately the 19242
average daily membership of all pupils whose attendance in the 19243
district is unauthorized attendance, and the membership of each 19244
such pupil shall be credited to the school district in which the 19245
pupil is entitled to attend school under division (B) of section 19246
3313.64 or section 3313.65 of the Revised Code as determined by 19247
the department of education. 19248

(I)(1) A city, local, exempted village, or joint vocational 19249
school district admitting a scholarship student of a pilot project 19250
district pursuant to division (C) of section 3313.976 of the 19251
Revised Code may count such student in its average daily 19252
membership. 19253

(2) In any year for which funds are appropriated for pilot 19254

project scholarship programs, a school district implementing a 19255
state-sponsored pilot project scholarship program that year 19256
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 19257
count in average daily membership: 19258

(a) All children residing in the district and utilizing a 19259
scholarship to attend kindergarten in any alternative school, as 19260
defined in section 3313.974 of the Revised Code; 19261

(b) All children who were enrolled in the district in the 19262
preceding year who are utilizing a scholarship to attend any such 19263
alternative school. 19264

(J) The superintendent of each cooperative education school 19265
district shall certify to the superintendent of public 19266
instruction, in a manner prescribed by the state board of 19267
education, the applicable average daily memberships for all 19268
students in the cooperative education district, also indicating 19269
the city, local, or exempted village district where each pupil is 19270
entitled to attend school under section 3313.64 or 3313.65 of the 19271
Revised Code. 19272

Sec. 3317.032. (A) Each city, local, exempted village, and 19273
cooperative education school district, each educational service 19274
center, each county MR/DD board, and each institution operating a 19275
special education program pursuant to section 3323.091 of the 19276
Revised Code shall, in accordance with procedures adopted by the 19277
state board of education, maintain a record of district membership 19278
of both of the following: 19279

(1) All handicapped preschool children in units approved 19280
under division (B) of section 3317.05 of the Revised Code; 19281

(2) All handicapped preschool children who are not in units 19282
approved ~~by the state board~~ under division (B) of section 3317.05 19283
of the Revised Code but who are otherwise served by a special 19284

education program. 19285

(B) The superintendent of each district, board, or 19286
institution subject to division (A) of this section shall certify 19287
to the state board of education, in accordance with procedures 19288
adopted by that board, membership figures of all handicapped 19289
preschool children whose membership is maintained under division 19290
(A)(2) of this section. The figures certified under this division 19291
shall be used in the determination of the ADM used to compute 19292
funds for educational service center governing boards under 19293
division (B) of section 3317.11 of the Revised Code. 19294

Sec. 3317.05. (A) For the purpose of calculating payments 19295
under sections 3317.052 and 3317.053 of the Revised Code, the 19296
~~state board~~ department of education shall determine for each 19297
institution, by the last day of January of each year and based on 19298
information certified under section 3317.03 of the Revised Code, 19299
the number of vocational education units or fractions of units 19300
approved by the ~~state board~~ department on the basis of standards 19301
and rules adopted by the state board of education. As used in this 19302
division, "institution" means an institution operated by a 19303
department specified in section 3323.091 of the Revised Code and 19304
that provides vocational education programs under the supervision 19305
of the division of vocational education of the department ~~of~~ 19306
~~education~~ that meet the standards and rules for these programs, 19307
including licensure of professional staff involved in the 19308
programs, as established by the state board ~~of education~~. 19309

(B) For the purpose of calculating payments under sections 19310
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 19311
~~state board~~ department shall determine, based on information 19312
certified under section 3317.03 of the Revised Code, the following 19313
by the last day of January of each year for each educational 19314
service center, for each school district, including each 19315

cooperative education school district, for each institution 19316
eligible for payment under section 3323.091 of the Revised Code, 19317
and for each county MR/DD board: the number of classes operated by 19318
the school district, service center, institution, or county MR/DD 19319
board for handicapped preschool children, or fraction thereof, 19320
including in the case of a district or service center that is a 19321
funding agent, classes taught by a licensed teacher employed by 19322
that district or service center under section 3313.841 of the 19323
Revised Code, approved annually by the ~~state board~~ department on 19324
the basis of standards and rules adopted by the state board. 19325

(C) For the purpose of calculating payments under sections 19326
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 19327
~~state board~~ department shall determine, based on information 19328
certified under section 3317.03 of the Revised Code, the following 19329
by the last day of January of each year for each school district, 19330
including each cooperative education school district, for each 19331
institution eligible for payment under section 3323.091 of the 19332
Revised Code, and for each county MR/DD board: the number of 19333
preschool handicapped related services units for child study, 19334
occupational, physical, or speech and hearing therapy, special 19335
education supervisors, and special education coordinators approved 19336
annually by the ~~state board~~ department on the basis of standards 19337
and rules adopted by the state board. 19338

(D) For the purpose of calculating payments under sections 19339
3317.052 and 3317.053 of the Revised Code, the ~~state board~~ 19340
department shall determine, based on information certified under 19341
section 3317.03 of the Revised Code, the following by the last day 19342
of January of each year for each institution eligible for payment 19343
under section 3323.091 of the Revised Code: 19344

(1) The number of classes operated by an institution for 19345
handicapped children other than handicapped preschool children, or 19346
fraction thereof, approved annually by the ~~state board~~ department 19347

on the basis of standards and rules adopted by the state board; 19348

(2) The number of related services units for children other 19349
than handicapped preschool children for child study, occupational, 19350
physical, or speech and hearing therapy, special education 19351
supervisors, and special education coordinators approved annually 19352
by the ~~state board~~ department on the basis of standards and rules 19353
adopted by the state board. 19354

(E) All of the arithmetical calculations made under this 19355
section shall be carried to the second decimal place. The total 19356
number of units for school districts, service centers, and 19357
institutions approved annually ~~by the state board~~ under this 19358
section shall not exceed the number of units included in the ~~state~~ 19359
~~board's~~ estimate of cost for these units and appropriations made 19360
for them by the general assembly. 19361

In the case of units described in division (D)(1) of this 19362
section operated by institutions eligible for payment under 19363
section 3323.091 of the Revised Code, the ~~state board~~ department 19364
shall approve only units for persons who are under age twenty-two 19365
on the first day of the academic year, but not less than six years 19366
of age on the thirtieth day of September of that year, except that 19367
such a unit may include one or more children who are under six 19368
years of age on the thirtieth day of September if such children 19369
have been admitted to the unit pursuant to rules of the state 19370
board. In the case of handicapped preschool units described in 19371
division (B) of this section ~~operated by county MR/DD boards and~~ 19372
~~institutions eligible for payment under section 3323.091 of the~~ 19373
~~Revised Code,~~ the ~~state board~~ department shall approve only 19374
preschool units for children who are under age six but not less 19375
than age three on the ~~thirtieth~~ first day of ~~September~~ December of 19376
the academic year, except that such a unit may include one or more 19377
children who are under age three or are age six or over on the 19378
~~thirtieth~~ first day of ~~September~~ December, as reported under 19379

division (B)(2) or (G)(2)(b) of section 3317.03 of the Revised Code, if such children have been admitted to the unit pursuant to rules of the state board ~~of education~~. The number of units for county MR/DD boards and institutions eligible for payment under section 3323.091 of the Revised Code ~~approved by the state board~~ under this section shall not exceed the number that can be funded with appropriations made for such purposes by the general assembly.

No unit shall be approved under divisions (B) to (D) of this section unless a plan has been submitted and approved under Chapter 3323. of the Revised Code.

(F) The department shall approve units or fractions thereof for gifted children on the basis of standards and rules adopted by the state board.

Sec. 3317.06. Moneys paid to school districts under division (L) of section 3317.024 of the Revised Code shall be used for the following independent and fully severable purposes:

(A) To purchase such secular textbooks or electronic textbooks as have been approved by the superintendent of public instruction for use in public schools in the state and to loan such textbooks or electronic textbooks to pupils attending nonpublic schools within the district or to their parents and to hire clerical personnel to administer such lending program. Such loans shall be based upon individual requests submitted by such nonpublic school pupils or parents. Such requests shall be submitted to the school district in which the nonpublic school is located. Such individual requests for the loan of textbooks or electronic textbooks shall, for administrative convenience, be submitted by the nonpublic school pupil or the pupil's parent to the nonpublic school, which shall prepare and submit collective summaries of the individual requests to the school district. As

used in this section: 19411

(1) "Textbook" means any book or book substitute that a pupil 19412
uses as a consumable or nonconsumable text, text substitute, or 19413
text supplement in a particular class or program in the school the 19414
pupil regularly attends. 19415

(2) "Electronic textbook" means computer software, 19416
interactive videodisc, magnetic media, CD-ROM, computer 19417
courseware, local and remote computer assisted instruction, 19418
on-line service, electronic medium, or other means of conveying 19419
information to the student or otherwise contributing to the 19420
learning process through electronic means. 19421

(B) To provide speech and hearing diagnostic services to 19422
pupils attending nonpublic schools within the district. Such 19423
service shall be provided in the nonpublic school attended by the 19424
pupil receiving the service. 19425

(C) To provide physician, nursing, dental, and optometric 19426
services to pupils attending nonpublic schools within the 19427
district. Such services shall be provided in the school attended 19428
by the nonpublic school pupil receiving the service. 19429

(D) To provide diagnostic psychological services to pupils 19430
attending nonpublic schools within the district. Such services 19431
shall be provided in the school attended by the pupil receiving 19432
the service. 19433

(E) To provide therapeutic psychological and speech and 19434
hearing services to pupils attending nonpublic schools within the 19435
district. Such services shall be provided in the public school, in 19436
nonpublic schools, in public centers, or in mobile units located 19437
on or off of the nonpublic premises. If such services are provided 19438
in the public school or in public centers, transportation to and 19439
from such facilities shall be provided by the school district in 19440
which the nonpublic school is located. 19441

(F) To provide guidance and counseling services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(G) To provide remedial services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(H) To supply for use by pupils attending nonpublic schools within the district such standardized tests and scoring services as are in use in the public schools of the state;

(I) To provide programs for children who attend nonpublic schools within the district and are handicapped children as defined in division (A) of section 3323.01 of the Revised Code or gifted children. Such programs shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such programs are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(J) To hire clerical personnel to assist in the administration of programs pursuant to divisions (B), (C), (D), (E), (F), (G), and (I) of this section and to hire supervisory

personnel to supervise the providing of services and textbooks 19473
pursuant to this section. 19474

(K) To purchase or lease any secular, neutral, and 19475
nonideological computer software (including site-licensing), 19476
prerecorded video laserdiscs, digital video on demand (DVD), 19477
compact discs, and video cassette cartridges, wide area 19478
connectivity and related technology as it relates to internet 19479
access, mathematics or science equipment and materials, 19480
instructional materials, and school library materials that are in 19481
general use in the public schools of the state and loan such items 19482
to pupils attending nonpublic schools within the district or to 19483
their parents, and to hire clerical personnel to administer the 19484
lending program. Only such items that are incapable of diversion 19485
to religious use and that are susceptible of loan to individual 19486
pupils and are furnished for the use of individual pupils shall be 19487
purchased and loaned under this division. As used in this section, 19488
"instructional materials" means prepared learning materials that 19489
are secular, neutral, and nonideological in character and are of 19490
benefit to the instruction of school children, and may include 19491
educational resources and services developed by the ~~Ohio schoolnet~~ 19492
~~commission~~ department of education. 19493

(L) To purchase or lease instructional equipment, including 19494
computer hardware and related equipment in general use in the 19495
public schools of the state, for use by pupils attending nonpublic 19496
schools within the district and to loan such items to pupils 19497
attending nonpublic schools within the district or to their 19498
parents, and to hire clerical personnel to administer the lending 19499
program. 19500

(M) To purchase mobile units to be used for the provision of 19501
services pursuant to divisions (E), (F), (G), and (I) of this 19502
section and to pay for necessary repairs and operating costs 19503
associated with these units. 19504

Clerical and supervisory personnel hired pursuant to division 19505
(J) of this section shall perform their services in the public 19506
schools, in nonpublic schools, public centers, or mobile units 19507
where the services are provided to the nonpublic school pupil, 19508
except that such personnel may accompany pupils to and from the 19509
service sites when necessary to ensure the safety of the children 19510
receiving the services. 19511

All services provided pursuant to this section may be 19512
provided under contract with educational service centers, the 19513
department of health, city or general health districts, or private 19514
agencies whose personnel are properly licensed by an appropriate 19515
state board or agency. 19516

Transportation of pupils provided pursuant to divisions (E), 19517
(F), (G), and (I) of this section shall be provided by the school 19518
district from its general funds and not from moneys paid to it 19519
under division (L) of section 3317.024 of the Revised Code unless 19520
a special transportation request is submitted by the parent of the 19521
child receiving service pursuant to such divisions. If such an 19522
application is presented to the school district, it may pay for 19523
the transportation from moneys paid to it under division (L) of 19524
section 3317.024 of the Revised Code. 19525

No school district shall provide health or remedial services 19526
to nonpublic school pupils as authorized by this section unless 19527
such services are available to pupils attending the public schools 19528
within the district. 19529

Materials, equipment, computer hardware or software, 19530
textbooks, electronic textbooks, and health and remedial services 19531
provided for the benefit of nonpublic school pupils pursuant to 19532
this section and the admission of pupils to such nonpublic schools 19533
shall be provided without distinction as to race, creed, color, or 19534
national origin of such pupils or of their teachers. 19535

No school district shall provide services, materials, or equipment that contain religious content for use in religious courses, devotional exercises, religious training, or any other religious activity.

As used in this section, "parent" includes a person standing in loco parentis to a child.

Notwithstanding section 3317.01 of the Revised Code, payments shall be made under this section to any city, local, or exempted village school district within which is located one or more nonpublic elementary or high schools and any payments made to school districts under division (L) of section 3317.024 of the Revised Code for purposes of this section may be disbursed without submission to and approval of the controlling board.

The allocation of payments for materials, equipment, textbooks, electronic textbooks, health services, and remedial services to city, local, and exempted village school districts shall be on the basis of the state board of education's estimated annual average daily membership in nonpublic elementary and high schools located in the district.

Payments made to city, local, and exempted village school districts under this section shall be equal to specific appropriations made for the purpose. All interest earned by a school district on such payments shall be used by the district for the same purposes and in the same manner as the payments may be used.

The department of education shall adopt guidelines and procedures under which such programs and services shall be provided, under which districts shall be reimbursed for administrative costs incurred in providing such programs and services, and under which any unexpended balance of the amounts appropriated by the general assembly to implement this section may

be transferred to the auxiliary services personnel unemployment 19567
compensation fund established pursuant to section 4141.47 of the 19568
Revised Code. The department shall also adopt guidelines and 19569
procedures limiting the purchase and loan of the items described 19570
in division (K) of this section to items that are in general use 19571
in the public schools of the state, that are incapable of 19572
diversion to religious use, and that are susceptible to individual 19573
use rather than classroom use. Within thirty days after the end of 19574
each biennium, each board of education shall remit to the 19575
department all moneys paid to it under division (L) of section 19576
3317.024 of the Revised Code and any interest earned on those 19577
moneys that are not required to pay expenses incurred under this 19578
section during the biennium for which the money was appropriated 19579
and during which the interest was earned. If a board of education 19580
subsequently determines that the remittal of moneys leaves the 19581
board with insufficient money to pay all valid expenses incurred 19582
under this section during the biennium for which the remitted 19583
money was appropriated, the board may apply to the department of 19584
education for a refund of money, not to exceed the amount of the 19585
insufficiency. If the department determines the expenses were 19586
lawfully incurred and would have been lawful expenditures of the 19587
refunded money, it shall certify its determination and the amount 19588
of the refund to be made to the director of job and family 19589
services who shall make a refund as provided in section 4141.47 of 19590
the Revised Code. 19591

Sec. 3317.064. (A) There is hereby established in the state 19592
treasury the auxiliary services ~~mobile unit replacement and repair~~ 19593
reimbursement fund. By the thirtieth day of January of each 19594
odd-numbered year, the director of job and family services and the 19595
superintendent of public instruction shall determine the amount of 19596
any excess moneys in the auxiliary services personnel unemployment 19597
compensation fund not reasonably necessary for the purposes of 19598

section 4141.47 of the Revised Code, and shall certify such amount 19599
to the director of budget and management for transfer to the 19600
auxiliary services ~~mobile unit replacement and repair~~ 19601
reimbursement fund. If the director of job and family services and 19602
the superintendent disagree on such amount, the director of budget 19603
and management shall determine the amount to be transferred. 19604

(B) Moneys in the auxiliary services ~~mobile unit replacement~~ 19605
~~and repair~~ reimbursement fund shall be used for the relocation or 19606
for the replacement and repair of mobile units used to provide the 19607
services specified in division (E), (F), (G), or (I) of section 19608
3317.06 of the Revised Code. The state board of education shall 19609
adopt guidelines and procedures for replacement, repair, and 19610
relocation of mobile units and the procedures under which a school 19611
district may apply to receive moneys with which to repair or 19612
replace or relocate such units. 19613

(C) School districts may apply to the department for moneys 19614
from the auxiliary services ~~mobile unit replacement and repair~~ 19615
reimbursement fund for payment of incentives for early retirement 19616
and severance for school district personnel assigned to provide 19617
services authorized by section 3317.06 of the Revised Code at 19618
chartered nonpublic schools. The portion of the cost of any early 19619
retirement or severance incentive for any employee that is paid 19620
using money from the auxiliary services ~~mobile unit replacement~~ 19621
~~and repair~~ reimbursement fund shall not exceed the percentage of 19622
such employee's total service credit that the employee spent 19623
providing services to chartered nonpublic school students under 19624
section 3317.06 of the Revised Code. 19625

Sec. 3317.07. The state board of education shall establish 19626
rules for the purpose of distributing subsidies for the purchase 19627
of school buses under division (E) of section 3317.024 of the 19628
Revised Code. 19629

No school bus subsidy payments shall be paid to any district 19630
unless such district can demonstrate that pupils residing more 19631
than one mile from the school could not be transported without 19632
such additional aid. 19633

The amount paid to a county MR/DD board for buses purchased 19634
for transportation of children in special education programs 19635
operated by the board shall be one hundred per cent of the board's 19636
net cost. 19637

The amount paid to a school district for buses purchased for 19638
transportation of handicapped and nonpublic school pupils shall be 19639
one hundred per cent of the school district's net cost. 19640

The state board of education shall adopt a formula to 19641
determine the amount of payments that shall be distributed to 19642
school districts to purchase school buses for pupils other than 19643
handicapped or nonpublic school pupils. 19644

If any district or MR/DD board obtains bus services for pupil 19645
transportation pursuant to a contract, such district or board may 19646
use payments received under this section to defray the costs of 19647
contracting for bus services in lieu of for purchasing buses. 19648

If the department of education determines that a county MR/DD 19649
board no longer needs a school bus because the board no longer 19650
transports children to a special education program operated by the 19651
board, or if the department determines that a school district no 19652
longer needs a school bus to transport pupils to a particular 19653
nonpublic school or special education program, the department may 19654
reassign a bus that was funded with payments provided pursuant to 19655
this section for the purpose of transporting such pupils. The 19656
department may reassign a bus to a county MR/DD board or school 19657
district that transports children to a special education program 19658
designated in the children's individualized education plans, or to 19659
a school district that transports pupils to a nonpublic school, 19660

and needs an additional school bus. 19661

Sec. 3317.10. (A) On or before the first day of March of each 19662
year, the department of job and family services shall certify to 19663
the state board of education the unduplicated number of children 19664
ages five through seventeen residing in each school district and 19665
living in a family that, during the preceding October, had family 19666
income not exceeding the federal poverty guidelines as defined in 19667
section 5101.46 of the Revised Code and participated in one of the 19668
following: 19669

(1) Ohio works first; 19670

(2) The food stamp program; 19671

(3) The medical assistance program, including the healthy 19672
start program, established under Chapter 5111. of the Revised 19673
Code; 19674

(4) The children's health insurance program part I 19675
established under section 5101.50 of the Revised Code; 19676

(5) The disability financial assistance program established 19677
under Chapter 5115. of the Revised Code; 19678

(6) The disability medical assistance program established 19679
under Chapter 5115. of the Revised Code. 19680

The department of job and family services shall certify this 19681
information according to the school district of residence for each 19682
child. Except as provided under division (B) of this section, the 19683
number of children so certified in any year shall be used by the 19684
department of education in calculating the distribution of moneys 19685
for the ensuing fiscal year as provided in section 3317.029 of the 19686
Revised Code. 19687

(B) Upon the transfer of part of the territory of one school 19688
district to the territory of one or more other school districts, 19689
the department of education may adjust the number of children 19690

certified under division (A) of this section for any district 19691
gaining or losing territory in such a transfer in order to take 19692
into account the effect of the transfer on the number of such 19693
children who reside in the district. Within sixty days of receipt 19694
of a request for information from the department of education, the 19695
department of job and family services shall provide any 19696
information the department of education determines is necessary to 19697
make such adjustments. The department of education may use the 19698
adjusted number for any district for the applicable fiscal year, 19699
in lieu of the number certified for the district for that fiscal 19700
year under division (A) of this section, in the calculation of the 19701
distribution of moneys provided in section 3317.029 of the Revised 19702
Code. 19703

Sec. 3317.11. (A) Annually, on or before a date designated by 19704
the state board of education, each educational service center 19705
governing board shall prepare a budget of operating expenses for 19706
the ensuing year for the service center on forms prepared and 19707
furnished by the state board of education and shall certify the 19708
budget to the state board of education, together with such other 19709
information as the board may require. Such budget shall consist of 19710
two parts. Part (A) shall include the cost of the salaries, 19711
employers retirement contributions, and travel expenses of 19712
supervisory teachers approved by the state board of education. The 19713
amount derived from the calculation for such units in part (A) of 19714
the governing board budget shall be the sum of: 19715

(1) The sum of the minimum salaries calculated, pursuant to 19716
section 3317.13 of the Revised Code, for each approved licensed 19717
employee of the governing board; 19718

(2) An additional salary allowance proportional to the length 19719
of the extended term of service not to exceed three months for 19720
each supervisory and child study teacher whose term of service in 19721

any year is extended beyond the terms of service of regular classroom teachers;

(3) An allowance equal to fifteen per cent of the amount computed under division (A)(1) of this section;

(4) An allowance for necessary travel expenses, for each of the personnel approved in part (A) of the budget, limited to two hundred twenty-three dollars and sixteen cents per month, or two thousand six hundred seventy-eight dollars per year per person employed, whichever is the lesser.

Part (B) shall include the cost of all other lawful expenditures of the governing board. The state board of education shall review such budget and may approve, increase, or decrease such budget.

The governing board shall be reimbursed by the state board of education from state funds for the cost of part (A) of the budget. The governing board shall be reimbursed by the state board of education, from state funds for the cost of part (B) of the approved budget that is in excess of six dollars and fifty cents times the service center ADM. If the governing board provides services to city or exempted village school districts pursuant to section 3313.843 of the Revised Code, the governing board shall be reimbursed from state funds for the cost of part (B) of the budget that is in excess of six dollars and fifty cents times the sum of the service center ADM and the client ADMs of the city or exempted village districts to which such services are provided. The cost of part (B) not in excess of six dollars and fifty cents times the number of such ADM shall be apportioned by the state board of education among the local school districts in the territory of the service center, or among all districts to which the governing board provides services, on the basis of the total number of pupils in each school district.

If part (B) of the budget is in excess of that approved by 19753
the state board of education, the excess cost shall be apportioned 19754
by the state board of education among the local school districts 19755
in the territory of the service center on the basis of the total 19756
number of such pupils in each such school district, provided that 19757
a majority of the boards of education of such local school 19758
districts approve such apportionment. The state board of education 19759
shall initiate and supervise the procedure by which the local 19760
boards shall approve or disapprove such apportionment. 19761

The amounts so apportioned shall be certified to the 19762
treasurers of the various school districts. In the case of each 19763
district such amount shall be deducted by the state board of 19764
education from funds allocated to the district pursuant to 19765
division (E) of section 3317.023 of the Revised Code. 19766

The state board of education shall certify to the director of 19767
budget and management for payment the total of the deductions, 19768
whereupon the amount shall be paid to the governing board of each 19769
service center, to be deposited to the credit of a separate fund, 19770
hereby created, to be known as the educational service center 19771
governing board fund. 19772

An educational service center may provide special education 19773
to students in its local districts or in client districts. A 19774
service center is eligible for funding under division (J) of 19775
section 3317.024 of the Revised Code and eligible for state 19776
subsidies for the purchase of school buses under section 3317.07 19777
of the Revised Code. Special education units for gifted children 19778
may be operated by a governing board. Vocational education may be 19779
provided by a governing board. A governing board may conduct 19780
driver education for pupils enrolled in a high school in 19781
accordance with Chapter 4508. of the Revised Code. 19782

Every local school district shall be provided supervisory 19783

services by its governing board as approved by the state board of 19784
education. A city or exempted village school district shall be 19785
considered to be provided supervisory services by a governing 19786
board if it has entered into an agreement for the governing board 19787
to provide any services under section 3313.843 of the Revised 19788
Code. Supervisory services shall not exceed one supervisory 19789
teacher for the first fifty classroom teachers employed in all 19790
districts that are provided supervisory services calculated under 19791
section 3317.023 of the Revised Code and one supervisory teacher 19792
for every additional one hundred such classroom teachers so 19793
calculated. Reimbursement for such supervisory services shall be a 19794
deduction by the state board of education from the payment to the 19795
school district pursuant to division (E) of section 3317.023 of 19796
the Revised Code. Deductions for all supervisory services and 19797
extended services for supervisory and child study shall be 19798
apportioned among local school districts within the territory of 19799
the service center and any city or exempted village districts that 19800
have entered into agreements with a service center pursuant to 19801
section 3313.843 of the Revised Code by the state board of 19802
education on the basis of the total number of pupils in each 19803
school district, except that where such services are provided to 19804
districts other than local school districts within the service 19805
center territory and city or exempted village districts having 19806
agreements with the service center, such charges shall be 19807
apportioned among all participating districts on the basis of the 19808
total number of pupils in each school district. All deductions 19809
from state funding to school districts required for reimbursement 19810
of governing boards by division (E) of section 3317.023 of the 19811
Revised Code shall be made from the total of the payment computed 19812
for the district under this chapter, after making any other 19813
adjustments in that payment required by law. 19814

(B)(1) In addition to the payments made under division (A) of 19815
this section, except as otherwise provided in division (C) of this 19816

section, the department of education shall pay each governing board thirty-seven dollars times the sum of the service center ADM and the sum of the client ADMs of all its client districts in fiscal years 2002 ~~and~~, 2003, and 2004.

(2) In addition to other payments under this section, the department shall pay each educational service center the amounts due to it from school districts pursuant to contracts, compacts, or agreements under which the service center furnishes services to the districts or their students. In order to receive payment under this division, an educational service center shall furnish either a copy of the applicable contract, compact, or agreement clearly indicating the amounts of the payments, or a written statement of the payments owed signed by the superintendent or treasurer of the responsible school district.

The amounts paid to service centers under division (B)(2) of this section shall be deducted from payments to school districts pursuant to division (K)(2) of section 3317.023 of the Revised Code.

(C) Each multicounty service center shall receive a payment each fiscal year equal to forty dollars and fifty-two cents times the sum of the service center ADM and the client ADMs of all its client districts.

(D) Each city, exempted village, local, joint vocational, or cooperative education school district shall pay to the governing board of an educational service center any amounts agreed to for each child enrolled in the district who receives special education and related services or vocational education from the educational service center.

(E) As used in this section:

(1) "Service center ADM" means the total of each of the following for all local school districts within the limits of an

educational service center's territory:	19848
(a) The formula ADM;	19849
(b) The kindergarten average daily membership included in the formula ADM;	19850 19851
(c) Three-quarters of the number of students reported under division (B)(4) of section 3317.03 of the Revised Code;	19852 19853
(d) The average daily membership of handicapped preschool children reported under division (B)(2) of section 3317.03 of the Revised Code;	19854 19855 19856
(e) The number of preschool students certified under division (B) of section 3317.032 of the Revised Code.	19857 19858
(2) "Client ADM" means the total of each number described under divisions (E)(1)(a) to (e) of this section for a client district.	19859 19860 19861
(3) "Client district" means a city or exempted village school district that has entered into an agreement to receive services from a service center pursuant to section 3313.843 of the Revised Code.	19862 19863 19864 19865
(4) "Multicounty service center" means a service center that includes territory that formerly was included in the territory of at least three former service centers or county school districts, which former centers or districts engaged in one or more mergers pursuant to section 3311.053 of the Revised Code to form the present center.	19866 19867 19868 19869 19870 19871
Sec. 3317.16. (A) As used in this section:	19872
(1) "State share percentage" means the percentage calculated for a joint vocational school district as follows:	19873 19874
(a) Calculate the state base cost funding amount for the district under division (B) of this section. If the district would	19875 19876

not receive any base cost funding for that year under that 19877
division, the district's state share percentage is zero. 19878

(b) If the district would receive base cost funding under 19879
that division, divide that base cost amount by an amount equal to 19880
the following: 19881

cost-of-doing-business factor X 19882

the formula amount X 19883

the greater of formula ADM or 19884

three-year average formula ADM 19885

The resultant number is the district's state share 19886
percentage. 19887

(2) The "total special education weight" for a joint 19888
vocational school district shall be calculated in the same manner 19889
as prescribed in division (B)(1) of section 3317.022 of the 19890
Revised Code. 19891

(3) The "total vocational education weight" for a joint 19892
vocational school district shall be calculated in the same manner 19893
as prescribed in division (B)(4) of section 3317.022 of the 19894
Revised Code. 19895

(4) The "total recognized valuation" of a joint vocational 19896
school district shall be determined by adding the recognized 19897
valuations of all its constituent school districts for the 19898
applicable fiscal year. 19899

(5) "Resident district" means the city, local, or exempted 19900
village school district in which a student is entitled to attend 19901
school under section 3313.64 or 3313.65 of the Revised Code. 19902

(6) "Community school" means a community school established 19903
under Chapter 3314. of the Revised Code. 19904

(B) The department of education shall compute and distribute 19905
state base cost funding to each joint vocational school district 19906

for the fiscal year in accordance with the following formula: 19907
 (cost-of-doing-business factor X 19908
 formula amount X the greater of formula 19909
 ADM or three-year average formula ADM) - 19910
 (.0005 X total recognized valuation) 19911

If the difference obtained under this division is a negative 19912
number, the district's computation shall be zero. 19913

(C)(1) The department shall compute and distribute state 19914
vocational education additional weighted costs funds to each joint 19915
vocational school district in accordance with the following 19916
formula: 19917
 state share percentage X formula amount X 19918
 total vocational education weight 19919

(2) The department shall compute for each joint vocational 19920
school district state funds for vocational education associated 19921
services costs in accordance with the following formula: 19922
 state share percentage X .05 X 19923
 the formula amount X the sum of 19924
 categories one and two vocational 19925
 education ADM 19926

In any fiscal year, a joint vocational school district 19927
receiving funds under division (C)(2) of this section, or through 19928
a transfer of funds pursuant to division (L) of section 3317.023 19929
of the Revised Code, shall spend those funds only for the purposes 19930
that the department designates as approved for vocational 19931
education associated services expenses, which may include such 19932
purposes as apprenticeship coordinators, coordinators for other 19933
vocational education services, vocational evaluation, and other 19934
purposes designated by the department. The department may deny 19935
payment under division (C)(2) of this section to any district that 19936
the department determines is not operating those services or is 19937
using funds paid under division (C)(2) of this section, or through 19938

a transfer of funds pursuant to division (L) of section 3317.023 19939
of the Revised Code, for other purposes. 19940

(D)(1) The department shall compute and distribute state 19941
special education and related services additional weighted costs 19942
funds to each joint vocational school district in accordance with 19943
the following formula: 19944

state share percentage X formula amount X 19945
total special education weight 19946

(2)(a) As used in this division, the "personnel allowance" 19947
means thirty thousand dollars in fiscal years 2002 ~~and~~, 2003, and 19948
2004. 19949

(b) For the provision of speech services to students, 19950
including students who do not have individualized education 19951
programs prepared for them under Chapter 3323. of the Revised 19952
Code, and for no other purpose, the department shall pay each 19953
joint vocational school district an amount calculated under the 19954
following formula: 19955

(formula ADM divided by 2000) X the personnel 19956
allowance X state share percentage 19957

(3) In any fiscal year, a joint vocational school district 19958
shall spend for purposes that the department designates as 19959
approved for special education and related services expenses at 19960
least the amount calculated as follows: 19961

(cost-of-doing-business factor X formula amount 19962
X the sum of categories one through 19963
six special education ADM) + 19964
(total special education weight X 19965
formula amount) 19966

The purposes approved by the department for special education 19967
expenses shall include, but shall not be limited to, compliance 19968
with state rules governing the education of handicapped children, 19969

providing services identified in a student's individualized 19970
education program as defined in section 3323.01 of the Revised 19971
Code, and the portion of the district's overall administrative and 19972
overhead costs that are attributable to the district's special 19973
education student population. 19974

The department shall require joint vocational school 19975
districts to report data annually to allow for monitoring 19976
compliance with division (D)(3) of this section. The department 19977
shall annually report to the governor and the general assembly the 19978
amount of money spent by each joint vocational school district for 19979
special education and related services. 19980

(E)~~(2)~~(1) If a joint vocational school district's costs for a 19981
fiscal year for a student in its categories ~~one~~ two through six 19982
special education ADM exceed the threshold catastrophic cost for 19983
serving the student, as specified in division (C)(3)(b) of section 19984
3317.022 of the Revised Code, the district may submit to the 19985
superintendent of public instruction documentation, as prescribed 19986
by the superintendent, of all of its costs for that student. Upon 19987
submission of documentation for a student of the type and in the 19988
manner prescribed, the department shall pay to the district an 19989
amount equal to the sum of the following: 19990

(a) One-half of the district's costs for the student in 19991
excess of the threshold catastrophic cost; 19992

(b) The product of one-half of the district's costs for the 19993
student in excess of the threshold catastrophic cost multiplied by 19994
the district's state share percentage. 19995

(2) The district shall only report under division (E)(1) of 19996
this section, and the department shall only pay for, the costs of 19997
educational expenses and the related services provided to the 19998
student in accordance with the student's individualized education 19999
program. Any legal fees, court costs, or other costs associated 20000

with any cause of action relating to the student may not be included in the amount.	20001 20002
(F) Each fiscal year, the department shall pay each joint vocational school district an amount for adult technical and vocational education and specialized consultants.	20003 20004 20005
(G)(1) A joint vocational school district's local share of special education and related services additional weighted costs equals:	20006 20007 20008
(1 - state share percentage) X	20009
Total special education weight X	20010
the formula amount	20011
<u>(2) For each handicapped student receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under divisions (B), (D), (E), and (G)(1) of this section.</u>	20012 20013 20014 20015 20016 20017 20018 20019 20020
<u>Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student:</u>	20021 20022 20023
<u>(a) The product of the formula amount times the cost-of-doing-business factor;</u>	20024 20025
<u>(b) The product of the formula amount times the applicable multiple specified in section 3317.013 of the Revised Code;</u>	20026 20027
<u>(c) Any funds paid under division (E) of this section for the student;</u>	20028 20029
<u>(d) Any other funds received by the joint vocational school</u>	20030

district under this chapter to provide special education and 20031
related services to the student, not including the amount 20032
calculated under division (G)(2) of this section. 20033

(3) The board of education of the joint vocational school 20034
district shall report the excess costs calculated under division 20035
(G)(2) of this section to the department of education. 20036

(4) The department shall pay the amount of excess cost 20037
calculated under division (G)(2) of this section to the joint 20038
vocational school district and shall deduct that amount as 20039
provided in division (G)(4)(a) or (b) of this section, as 20040
applicable: 20041

(a) If the student is not enrolled in a community school, the 20042
department shall deduct the amount from the account of the 20043
student's resident district pursuant to division (M) of section 20044
3317.023 of the Revised Code. 20045

(b) If the student is enrolled in a community school, the 20046
department shall deduct the amount from the account of the 20047
community school pursuant to section 3314.083 of the Revised Code. 20048

(H) In any fiscal year, if the total of all payments made to 20049
a joint vocational school district under divisions (B) to (D) of 20050
this section and division (R) of section 3317.024 of the Revised 20051
Code is less than the amount that district received in fiscal year 20052
1999 under the version of this section in effect that year, plus 20053
the amount that district received under the version of section 20054
3317.162 of the Revised Code in effect that year and minus the 20055
amounts received that year for driver education and adult 20056
education, the department shall pay the district an additional 20057
amount equal to the difference between those two amounts. 20058

Sec. 3317.50. ~~The Ohio school net~~ telecommunity education fund 20059
is hereby created in the state treasury. The fund shall consist of 20060

certain excess local exchange telephone company contributions 20061
transferred from the reserve fund of the Ohio telecommunications 20062
advisory board pursuant to an agreement between the public 20063
utilities commission of Ohio and the Ohio department of education. 20064
The fund shall be used to finance technology grants to 20065
state-chartered elementary and secondary schools. Investment 20066
earnings of the fund shall be credited to the fund. 20067

Sec. 3317.51. (A) The distance learning fund is hereby 20068
created in the state treasury. The fund shall consist of moneys 20069
paid to the ~~Ohio SchoolNet commission~~ department of education by 20070
any telephone company as a part of a settlement agreement between 20071
such company and the public utilities commission in fiscal year 20072
1995 in part to establish distance learning throughout the state. 20073
The ~~authority~~ department shall administer the fund and expend 20074
moneys from it to finance technology grants to eligible schools 20075
chartered by the state board of education to establish distance 20076
learning in those schools. Chartered schools are eligible for 20077
funds if they are within the service area of the telephone 20078
company. Investment earnings of the fund shall be credited to the 20079
fund. 20080

(B) For purposes of this section, "distance learning" means 20081
the creation of a learning environment involving a school setting 20082
and at least one other location outside of the school which allows 20083
for information available at one site to be accessed at the other 20084
through the use of such educational applications as one-way or 20085
two-way transmission of data, voice, and video, singularly or in 20086
appropriate combinations. 20087

Sec. 3319.22. (A) The state board of education shall adopt 20088
rules establishing the standards and requirements for obtaining 20089
temporary, associate, provisional, and professional educator 20090
licenses of any categories, types, and levels the board elects to 20091

provide. However, no educator license shall be required for 20092
teaching children two years old or younger. 20093

(B) Any rules the state board of education adopts, amends, or 20094
rescinds for educator licenses under this section, division (D) of 20095
section 3301.07 of the Revised Code, or any other law shall be 20096
adopted, amended, or rescinded under Chapter 119. of the Revised 20097
Code except as follows: 20098

(1) Notwithstanding division (D) of section 119.03 and 20099
division (A)(1) of section 119.04 of the Revised Code, the 20100
effective date of any rules, or amendment or rescission of any 20101
rules, shall not be as prescribed in division (D) of section 20102
119.03 and division (A)(1) of section 119.04 of the Revised Code. 20103
Instead, the effective date shall be the date prescribed by 20104
section 3319.23 of the Revised Code. 20105

(2) Notwithstanding the authority to adopt, amend, or rescind 20106
emergency rules in division (F) of section 119.03 of the Revised 20107
Code, this authority shall not apply to the state board of 20108
education with regard to rules for educator licenses. 20109

(C)(1) The rules adopted under this section establishing 20110
standards requiring additional coursework for the renewal of any 20111
educator license shall require a school district and a chartered 20112
nonpublic school to establish local professional development 20113
committees. In a nonpublic school, the chief administrative 20114
officer shall establish the committees in any manner acceptable to 20115
such officer. The committees established under this division shall 20116
determine whether coursework that a district or chartered 20117
nonpublic school teacher proposes to complete meets the 20118
requirement of the rules. The rules shall establish a procedure by 20119
which a teacher may appeal the decision of a local professional 20120
development committee. 20121

(2) In any school district in which there is no exclusive 20122

representative established under Chapter 4117. of the Revised 20123
Code, the professional development committees shall be established 20124
as described in division (C)(2) of this section. 20125

Not later than the effective date of the rules adopted under 20126
this section, the board of education of each school district shall 20127
establish the structure for one or more local professional 20128
development committees to be operated by such school district. The 20129
committee structure so established by a district board shall 20130
remain in effect unless within thirty days prior to an anniversary 20131
of the date upon which the current committee structure was 20132
established, the board provides notice to all affected district 20133
employees that the committee structure is to be modified. 20134
Professional development committees may have a district-level or 20135
building-level scope of operations, and may be established with 20136
regard to particular grade or age levels for which an educator 20137
license is designated. 20138

Each professional development committee shall consist of at 20139
least three classroom teachers employed by the district, one 20140
principal employed by the district, and one other employee of the 20141
district appointed by the district superintendent. For committees 20142
with a building-level scope, the teacher and principal members 20143
shall be assigned to that building, and the teacher members shall 20144
be elected by majority vote of the classroom teachers assigned to 20145
that building. For committees with a district-level scope, the 20146
teacher members shall be elected by majority vote of the classroom 20147
teachers of the district, and the principal member shall be 20148
elected by a majority vote of the principals of the district, 20149
unless there are two or fewer principals employed by the district, 20150
in which case the one or two principals employed shall serve on 20151
the committee. If a committee has a particular grade or age level 20152
scope, the teacher members shall be licensed to teach such grade 20153
or age levels, and shall be elected by majority vote of the 20154

classroom teachers holding such a license and the principal shall 20155
be elected by all principals serving in buildings where any such 20156
teachers serve. The district superintendent shall appoint a 20157
replacement to fill any vacancy that occurs on a professional 20158
development committee, except in the case of vacancies among the 20159
elected classroom teacher members, which shall be filled by vote 20160
of the remaining members of the committee so selected. 20161

Terms of office on professional development committees shall 20162
be prescribed by the district board establishing the committees. 20163
The conduct of elections for members of professional development 20164
committees shall be prescribed by the district board establishing 20165
the committees. A professional development committee may include 20166
additional members, except that the majority of members on each 20167
such committee shall be classroom teachers employed by the 20168
district. Any member appointed to fill a vacancy occurring prior 20169
to the expiration date of the term for which a predecessor was 20170
appointed shall hold office as a member for the remainder of that 20171
term. 20172

The initial meeting of any professional development 20173
committee, upon election and appointment of all committee members, 20174
shall be called by a member designated by the district 20175
superintendent. At this initial meeting, the committee shall 20176
select a chairperson and such other officers the committee deems 20177
necessary, and shall adopt rules for the conduct of its meetings. 20178
Thereafter, the committee shall meet at the call of the 20179
chairperson or upon the filing of a petition with the district 20180
superintendent signed by a majority of the committee members 20181
calling for the committee to meet. 20182

(3) In the case of a school district in which an exclusive 20183
representative has been established pursuant to Chapter 4117. of 20184
the Revised Code, professional development committees shall be 20185
established in accordance with any collective bargaining agreement 20186

in effect in the district that includes provisions for such 20187
committees. 20188

If the collective bargaining agreement does not specify a 20189
different method for the selection of teacher members of the 20190
committees, the exclusive representative of the district's 20191
teachers shall select the teacher members. 20192

If the collective bargaining agreement does not specify a 20193
different structure for the committees, the board of education of 20194
the school district shall establish the structure, including the 20195
number of committees and the number of teacher and administrative 20196
members on each committee; the specific administrative members to 20197
be part of each committee; whether the scope of the committees 20198
will be district levels, building levels, or by type of grade or 20199
age levels for which educator licenses are designated; the lengths 20200
of terms for members; the manner of filling vacancies on the 20201
committees; and the frequency and time and place of meetings. 20202
However, in all cases, except as provided in division (C)(4) of 20203
this section, there shall be a majority of teacher members of any 20204
professional development committee, there shall be at least five 20205
total members of any professional development committee, and the 20206
exclusive representative shall designate replacement members in 20207
the case of vacancies among teacher members, unless the collective 20208
bargaining agreement specifies a different method of selecting 20209
such replacements. 20210

(4) Whenever an administrator's coursework plan is being 20211
discussed or voted upon, the local professional development 20212
committee shall, at the request of one of its administrative 20213
members, cause a majority of the committee to consist of 20214
administrative members by reducing the number of teacher members 20215
voting on the plan. 20216

(D)(1) The department of education, educational service 20217
centers, county boards of mental retardation and developmental 20218

disabilities, regional professional development centers, special 20219
education regional resource centers, college and university 20220
departments of education, head start programs, ~~the Ohio SchoolNet~~ 20221
~~commission~~, and the Ohio education computer network may establish 20222
local professional development committees to determine whether the 20223
coursework proposed by their employees who are licensed or 20224
certificated under this section or section 3319.222 of the Revised 20225
Code meet the requirements of the rules adopted under this 20226
section. They may establish local professional development 20227
committees on their own or in collaboration with a school district 20228
or other agency having authority to establish them. 20229

Local professional development committees established by 20230
county boards of mental retardation and developmental disabilities 20231
shall be structured in a manner comparable to the structures 20232
prescribed for school districts in divisions (C)(2) and (3) of 20233
this section, as shall the committees established by any other 20234
entity specified in division (D)(1) of this section that provides 20235
educational services by employing or contracting for services of 20236
classroom teachers licensed or certificated under this section or 20237
section 3319.222 of the Revised Code. All other entities specified 20238
in division (D)(1) of this section shall structure their 20239
committees in accordance with guidelines which shall be issued by 20240
the state board. 20241

(2) Any public agency that is not specified in division 20242
(D)(1) of this section but provides educational services and 20243
employs or contracts for services of classroom teachers licensed 20244
or certificated under this section or section 3319.222 of the 20245
Revised Code may establish a local professional development 20246
committee, subject to the approval of the department of education. 20247
The committee shall be structured in accordance with guidelines 20248
issued by the state board. 20249

Sec. 3319.235. (A) The standards for the preparation of 20250
teachers adopted under section 3319.23 of the Revised Code shall 20251
require any institution that provides a course of study for the 20252
training of teachers to ensure that graduates of such course of 20253
study are skilled at integrating educational technology in the 20254
instruction of children, as evidenced by the graduate having 20255
either demonstrated proficiency in such skills in a manner 20256
prescribed by the department of education or completed a course 20257
that includes training in such skills. 20258

(B) ~~The Ohio SchoolNet commission, established pursuant to~~ 20259
~~section 3301.80 of the Revised Code, department~~ shall establish 20260
model professional development programs to assist teachers who 20261
completed their teacher preparation prior to the effective date of 20262
division (A) of this section to become skilled at integrating 20263
educational technology in the instruction of children. The 20264
~~commission~~ department shall provide technical assistance to school 20265
districts wishing to establish such programs. 20266

Sec. 3323.16. No unit for deaf children shall be disapproved 20267
for funding under division (B) or (D)(1) of section 3317.05 of the 20268
Revised Code on the basis of the methods of instruction used in 20269
educational programs in the school district or institution to 20270
teach deaf children to communicate, and no preference in approving 20271
units for funding shall be given ~~by the state board~~ for teaching 20272
deaf children by the oral, manual, total communication, or other 20273
method of instruction. 20274

Sec. 3332.04. The state board of career colleges and schools 20275
may appoint an executive director and such other staff as may be 20276
required for the performance of the board's duties and provide 20277
necessary facilities. In selecting an executive director, the 20278
board shall appoint an individual with a background or experience 20279

in the regulation of commerce, business, or education. The board 20280
may also arrange for services and facilities to be provided by the 20281
state board of education and the Ohio board of regents. All 20282
receipts of the board shall be deposited in the state treasury to 20283
the credit of the ~~general revenue~~ occupational licensing and 20284
regulatory fund. 20285

Sec. 3333.12. (A) As used in this section: 20286

(1) "Eligible student" means an undergraduate student who is: 20287

(a) An Ohio resident; 20288

(b) Enrolled in either of the following: 20289

(i) An accredited institution of higher education in this 20290
state that meets the requirements of Title VI of the Civil Rights 20291
Act of 1964 and is state-assisted, is nonprofit and has a 20292
certificate of authorization from the Ohio board of regents 20293
pursuant to Chapter 1713. of the Revised Code, has a certificate 20294
of registration from the state board of career colleges and 20295
schools and program authorization to award an associate or 20296
bachelor's degree, or is a private institution exempt from 20297
regulation under Chapter 3332. of the Revised Code as prescribed 20298
in section 3333.046 of the Revised Code. Students who attend an 20299
institution that holds a certificate of registration shall be 20300
enrolled in a program leading to an associate or bachelor's degree 20301
for which associate or bachelor's degree program the institution 20302
has program authorization issued under section 3332.05 of the 20303
Revised Code. 20304

(ii) A technical education program of at least two years 20305
duration sponsored by a private institution of higher education in 20306
this state that meets the requirements of Title VI of the Civil 20307
Rights Act of 1964. 20308

(c) Enrolled as a full-time student or enrolled as a less 20309

than full-time student for the term expected to be the student's 20310
final term of enrollment and is enrolled for the number of credit 20311
hours necessary to complete the requirements of the program in 20312
which the student is enrolled. 20313

(2) "Gross income" includes all taxable and nontaxable income 20314
of the parents, the student, and the student's spouse, except 20315
income derived from an Ohio academic scholarship, income earned by 20316
the student between the last day of the spring term and the first 20317
day of the fall term, and other income exclusions designated by 20318
the board. Gross income may be verified to the board by the 20319
institution in which the student is enrolled using the federal 20320
financial aid eligibility verification process or by other means 20321
satisfactory to the board. 20322

(3) "Resident," "full-time student," "dependent," 20323
"financially independent," and "accredited" shall be defined by 20324
rules adopted by the board. 20325

(B) The Ohio board of regents shall establish and administer 20326
an instructional grant program and may adopt rules to carry out 20327
this section. The general assembly shall support the instructional 20328
grant program by such sums and in such manner as it may provide, 20329
but the board may also receive funds from other sources to support 20330
the program. If the amounts available for support of the program 20331
are inadequate to provide grants to all eligible students, 20332
preference in the payment of grants shall be given in terms of 20333
income, beginning with the lowest income category of gross income 20334
and proceeding upward by category to the highest gross income 20335
category. 20336

An instructional grant shall be paid to an eligible student 20337
through the institution in which the student is enrolled, except 20338
that no instructional grant shall be paid to any person serving a 20339
term of imprisonment. Applications for such grants shall be made 20340
as prescribed by the board, and such applications may be made in 20341

conjunction with and upon the basis of information provided in 20342
conjunction with student assistance programs funded by agencies of 20343
the United States government or from financial resources of the 20344
institution of higher education. The institution shall certify 20345
that the student applicant meets the requirements set forth in 20346
divisions (A)(1)(b) and (c) of this section. Instructional grants 20347
shall be provided to an eligible student only as long as the 20348
student is making appropriate progress toward a nursing diploma or 20349
an associate or bachelor's degree. No student shall be eligible to 20350
receive a grant for more than ten semesters, fifteen quarters, or 20351
the equivalent of five academic years. A grant made to an eligible 20352
student on the basis of less than full-time enrollment shall be 20353
based on the number of credit hours for which the student is 20354
enrolled and shall be computed in accordance with a formula 20355
adopted by the board. No student shall receive more than one grant 20356
on the basis of less than full-time enrollment. 20357

An instructional grant shall not exceed the total 20358
instructional and general charges of the institution. 20359

(C) The tables in this division prescribe the maximum grant 20360
amounts covering two semesters, three quarters, or a comparable 20361
portion of one academic year. Grant amounts for additional terms 20362
in the same academic year shall be determined under division (D) 20363
of this section. 20364

For a full-time student who is a dependent and enrolled in a 20365
nonprofit educational institution that is not a state-assisted 20366
institution and that has a certificate of authorization issued 20367
pursuant to Chapter 1713. of the Revised Code, the amount of the 20368
instructional grant for two semesters, three quarters, or a 20369
comparable portion of the academic year shall be determined in 20370
accordance with the following table: 20371

Private Institution 20372
20373

Table of Grants						20374
Maximum Grant \$5,466						20375
Gross Income	Number of Dependents					20376
	1	2	3	4	5 or more	20377
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	20378
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466	20379
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466	20380
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466	20381
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466	20382
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920	20383
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362	20384
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828	20385
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288	20386
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736	20387
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178	20388
\$33,001 - \$34,000	888	984	1,080	1,344	1,626	20389
\$34,001 - \$35,000	444	888	984	1,080	1,344	20390
\$35,001 - \$36,000	--	444	888	984	1,080	20391
\$36,001 - \$37,000	--	--	444	888	984	20392
\$37,001 - \$38,000	--	--	--	444	888	20393
\$38,001 - \$39,000	--	--	--	--	444	20394

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	20402
Table of Grants	20403
Maximum Grant \$5,466	20404
	20405

Gross Income	Number of Dependents						20406
	0	1	2	3	4	5 or more	20407
\$0 - \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	20408
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	20409
\$5,301 - \$5,800	4,362	4,920	5,466	5,466	5,466	5,466	20410
		<u>5,196</u>					20411
\$5,801 - \$6,300	3,828	4,362	4,920	5,466	5,466	5,466	20412
		<u>4,914</u>	<u>5,196</u>				20413
\$6,301 - \$6,800	3,288	3,828	4,362	4,920	5,466	5,466	20414
		<u>4,650</u>	<u>4,914</u>	<u>5,196</u>			20415
\$6,801 - \$7,300	2,736	3,288	3,828	4,362	4,920	5,466	20416
		<u>4,380</u>	<u>4,650</u>	<u>4,914</u>	<u>5,196</u>		20417
\$7,301 - \$8,300	2,178	2,736	3,288	3,828	4,362	4,920	20418
		<u>4,104</u>	<u>4,380</u>	<u>4,650</u>	<u>4,914</u>	<u>5,196</u>	20419
\$8,301 - \$9,300	1,626	2,178	2,736	3,288	3,828	4,362	20420
		<u>3,822</u>	<u>4,104</u>	<u>4,380</u>	<u>4,650</u>	<u>4,914</u>	20421
\$9,301 - \$10,300	1,344	1,626	2,178	2,736	3,288	3,828	20422
		<u>3,546</u>	<u>3,822</u>	<u>4,104</u>	<u>4,380</u>	<u>4,650</u>	20423
\$10,301 - \$11,800	1,080	1,344	1,626	2,178	2,736	3,288	20424
		<u>3,408</u>	<u>3,546</u>	<u>3,822</u>	<u>4,104</u>	<u>4,380</u>	20425
\$11,801 - \$13,300	984	1,080	1,344	1,626	2,178	2,736	20426
		<u>3,276</u>	<u>3,408</u>	<u>3,546</u>	<u>3,822</u>	<u>4,104</u>	20427
\$13,301 - \$14,800	888	984	1,080	1,344	1,626	2,178	20428
		<u>3,228</u>	<u>3,276</u>	<u>3,408</u>	<u>3,546</u>	<u>3,822</u>	20429
\$14,801 - \$16,300	444	888	984	1,080	1,344	1,626	20430
		<u>2,904</u>	<u>3,228</u>	<u>3,276</u>	<u>3,408</u>	<u>3,546</u>	20431
\$16,301 - \$19,300	--	444	888	984	1,080	1,344	20432
		<u>2,136</u>	<u>2,628</u>	<u>2,952</u>	<u>3,276</u>	<u>3,408</u>	20433
\$19,301 - \$22,300	--	--	444	888	984	1,080	20434
		<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	<u>2,676</u>	<u>3,000</u>	20435
\$22,301 - \$25,300	--	--	--	444	888	984	20436
		<u>1,092</u>	<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	<u>2,676</u>	20437

\$25,301 - \$30,300	--	—	—	—	444	888	20438
		<u>816</u>	<u>1,092</u>	<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	20439
\$30,301 - \$35,300	--	—	—	—	—	444	20440
		<u>492</u>	<u>540</u>	<u>672</u>	<u>816</u>	<u>1,314</u>	20441

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 career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 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:

Career Institution		Table of Grants					
		Maximum Grant \$4,632					
Gross Income		Number of Dependents					
	1	2	3	4	5 or more		
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	20454	
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632	20455	
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632	20456	
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632	20457	
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632	20458	
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182	20459	
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684	20460	
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222	20461	
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790	20462	
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292	20463	
\$32,001 - \$33,000	852	906	1,134	1,416	1,854	20464	
\$33,001 - \$34,000	750	852	906	1,134	1,416	20465	
\$34,001 - \$35,000	372	750	852	906	1,134	20466	
\$35,001 - \$36,000	--	372	750	852	906	20467	
\$36,001 - \$37,000	--	--	372	750	852	20468	

\$37,001 - \$38,000	--	--	--	372	750	20470
\$38,001 - \$39,000	--	--	--	--	372	20471

For a full-time student who is financially independent and 20472
enrolled in an educational institution that holds a certificate of 20473
registration from the state board of career colleges and schools 20474
or a private institution exempt from regulation under Chapter 20475
3332. of the Revised Code as prescribed in section 3333.046 of the 20476
Revised Code, the amount of the instructional grant for two 20477
semesters, three quarters, or a comparable portion of the academic 20478
year shall be determined in accordance with the following table: 20479

Career Institution 20480

Table of Grants 20481

Maximum Grant \$4,632 20482

Gross Income	Number of Dependents						20483
	0	1	2	3	4	5 or more	
\$0 - \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	20485
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632	20486
\$5,301 - \$5,800	3,684	4,182	4,632	4,632	4,632	4,632	20487
		<u>4,410</u>					20488
\$5,801 - \$6,300	3,222	3,684	4,182	4,632	4,632	4,632	20489
		<u>4,158</u>	<u>4,410</u>				20490
\$6,301 - \$6,800	2,790	3,222	3,684	4,182	4,632	4,632	20491
		<u>3,930</u>	<u>4,158</u>	<u>4,410</u>			20492
\$6,801 - \$7,300	2,292	2,790	3,222	3,684	4,182	4,632	20493
		<u>3,714</u>	<u>3,930</u>	<u>4,158</u>	<u>4,410</u>		20494
\$7,301 - \$8,300	1,854	2,292	2,790	3,222	3,684	4,182	20495
		<u>3,462</u>	<u>3,714</u>	<u>3,930</u>	<u>4,158</u>	<u>4,410</u>	20496
\$8,301 - \$9,300	1,416	1,854	2,292	2,790	3,222	3,684	20497
		<u>3,246</u>	<u>3,462</u>	<u>3,714</u>	<u>3,930</u>	<u>4,158</u>	20498
\$9,301 - \$10,300	1,134	1,416	1,854	2,292	2,790	3,222	20499
		<u>3,024</u>	<u>3,246</u>	<u>3,462</u>	<u>3,714</u>	<u>3,930</u>	20500
\$10,301 - \$11,800	906	1,134	1,416	1,854	2,292	2,790	20501

		<u>2,886</u>	<u>3,024</u>	<u>3,246</u>	<u>3,462</u>	<u>3,714</u>	20502
\$11,801 - \$13,300	852	<u>906</u>	<u>1,134</u>	<u>1,416</u>	<u>1,854</u>	<u>2,292</u>	20503
		<u>2,772</u>	<u>2,886</u>	<u>3,024</u>	<u>3,246</u>	<u>3,462</u>	20504
\$13,301 - \$14,800	750	<u>852</u>	<u>906</u>	<u>1,134</u>	<u>1,416</u>	<u>1,854</u>	20505
		<u>2,742</u>	<u>2,772</u>	<u>2,886</u>	<u>3,024</u>	<u>3,246</u>	20506
\$14,801 - \$16,300	372	<u>750</u>	<u>852</u>	<u>906</u>	<u>1,134</u>	<u>1,416</u>	20507
		<u>2,466</u>	<u>2,742</u>	<u>2,772</u>	<u>2,886</u>	<u>3,024</u>	20508
\$16,301 - \$19,300	--	<u>372</u>	<u>750</u>	<u>852</u>	<u>906</u>	<u>1,134</u>	20509
		<u>1,800</u>	<u>2,220</u>	<u>2,520</u>	<u>2,772</u>	<u>2,886</u>	20510
\$19,301 - \$22,300	--	<u>—</u>	<u>372</u>	<u>750</u>	<u>852</u>	<u>906</u>	20511
		<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	<u>2,268</u>	<u>2,544</u>	20512
\$22,301 - \$25,300	--	<u>—</u>	<u>—</u>	<u>372</u>	<u>750</u>	<u>852</u>	20513
		<u>930</u>	<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	<u>2,268</u>	20514
\$25,301 - \$30,300	--	<u>—</u>	<u>—</u>	<u>—</u>	<u>372</u>	<u>750</u>	20515
		<u>708</u>	<u>930</u>	<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	20516
\$30,301 - \$35,300	--	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>372</u>	20517
		<u>426</u>	<u>456</u>	<u>570</u>	<u>708</u>	<u>1,116</u>	20518

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:

Public Institution							20524
Table of Grants							20525
Maximum Grant \$2,190							20526
Gross Income	Number of Dependents						20527
	1	2	3	4	5 or more		20528
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190		20529
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190		20530
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190		20531
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190		20532
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190		20533

\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	20534
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	20535
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	20536
\$28,001 - \$31,000	522	648	864	1,080	1,320	20537
\$31,001 - \$32,000	420	522	648	864	1,080	20538
\$32,001 - \$33,000	384	420	522	648	864	20539
\$33,001 - \$34,000	354	384	420	522	648	20540
\$34,001 - \$35,000	174	354	384	420	522	20541
\$35,001 - \$36,000	--	174	354	384	420	20542
\$36,001 - \$37,000	--	--	174	354	384	20543
\$37,001 - \$38,000	--	--	--	174	354	20544
\$38,001 - \$39,000	--	--	--	--	174	20545

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:

Public Institution							20551
Table of Grants							20552
Maximum Grant \$2,190							20553
Gross Income	Number of Dependents						20554
	0	1	2	3	4	5 or more	20555
\$0 - \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	20556
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	20557
\$5,301 - \$5,800	1,740	1,974	2,190	2,190	2,190	2,190	20558
		<u>2,082</u>					20559
\$5,801 - \$6,300	1,542	1,740	1,974	2,190	2,190	2,190	20560
		<u>1,968</u>	<u>2,082</u>				20561
\$6,301 - \$6,800	1,320	1,542	1,740	1,974	2,190	2,190	20562
		<u>1,866</u>	<u>1,968</u>	<u>2,082</u>			20563
\$6,801 - \$7,300	1,080	1,320	1,542	1,740	1,974	2,190	20564
		<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	<u>2,082</u>		20565

\$7,301 - \$8,300	864	1,080	1,320	1,542	1,740	1,974	20566
		<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	<u>2,082</u>	20567
\$8,301 - \$9,300	648	864	1,080	1,320	1,542	1,740	20568
		<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	20569
\$9,301 - \$10,300	522	648	864	1,080	1,320	1,542	20570
		<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	20571
\$10,301 - \$11,800	420	522	648	864	1,080	1,320	20572
		<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	20573
\$11,801 - \$13,300	384	420	522	648	864	1,080	20574
		<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	20575
\$13,301 - \$14,800	354	384	420	522	648	864	20576
		<u>1,290</u>	<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	20577
\$14,801 - \$16,300	174	354	384	420	522	648	20578
		<u>1,164</u>	<u>1,290</u>	<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	20579
\$16,301 - \$19,300	--	174	354	384	420	522	20580
		<u>858</u>	<u>1,050</u>	<u>1,182</u>	<u>1,308</u>	<u>1,356</u>	20581
\$19,301 - \$22,300	--	—	174	354	384	420	20582
		<u>540</u>	<u>750</u>	<u>948</u>	<u>1,062</u>	<u>1,200</u>	20583
\$22,301 - \$25,300	--	—	—	174	354	384	20584
		<u>432</u>	<u>540</u>	<u>750</u>	<u>948</u>	<u>1,062</u>	20585
\$25,301 - \$30,300	--	—	—	—	174	354	20586
		<u>324</u>	<u>432</u>	<u>540</u>	<u>750</u>	<u>948</u>	20587
\$30,301 - \$35,300	--	—	—	—	—	174	20588
		<u>192</u>	<u>210</u>	<u>264</u>	<u>324</u>	<u>522</u>	20589

(D) 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 division (C) of this section, the maximum grant amount shall be a percentage of the maximum prescribed in the applicable table of that division. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under that division. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under that division.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years.

(2) Division (F)(1) of this section does not apply to the following:

(a) Any student enrolled in an institution that under the federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary determines due to mitigating circumstances the institution may continue to participate in federal financial aid programs. The board shall adopt rules requiring institutions to provide information regarding an appeal to the board.

(b) Any student who has previously received a grant under this section who meets all other requirements of this section.

(3) The board shall adopt rules for the notification of all institutions whose students will be ineligible to participate in the grant program pursuant to division (F)(1) of this section.

(4) A student's attendance at an institution whose students lose eligibility for grants under division (F)(1) of this section

shall not affect that student's eligibility to receive a grant 20630
when enrolled in another institution. 20631

(G) Institutions of higher education that enroll students 20632
receiving instructional grants under this section shall report to 20633
the board all students who have received instructional grants but 20634
are no longer eligible for all or part of such grants and shall 20635
refund any moneys due the state within thirty days after the 20636
beginning of the quarter or term immediately following the quarter 20637
or term in which the student was no longer eligible to receive all 20638
or part of the student's grant. There shall be an interest charge 20639
of one per cent per month on all moneys due and payable after such 20640
thirty-day period. The board shall immediately notify the office 20641
of budget and management and the legislative service commission of 20642
all refunds so received. 20643

Sec. 3383.01. As used in this chapter: 20644

(A) "Arts" means any of the following: 20645

(1) Visual, musical, dramatic, graphic, design, and other 20646
arts, including, but not limited to, architecture, dance, 20647
literature, motion pictures, music, painting, photography, 20648
sculpture, and theater, and the provision of training or education 20649
in these arts; 20650

(2) The presentation or making available, in museums or other 20651
indoor or outdoor facilities, of principles of science and their 20652
development, use, or application in business, industry, or 20653
commerce or of the history, heritage, development, presentation, 20654
and uses of the arts described in division (A)(1) of this section 20655
and of transportation; 20656

(3) The preservation, presentation, or making available of 20657
features of archaeological, architectural, environmental, or 20658
historical interest or significance in a state historical facility 20659

or a local historical facility. 20660

(B) "Arts organization" means either of the following: 20661

(1) A governmental agency or Ohio nonprofit corporation that 20662
provides programs or activities in areas directly concerned with 20663
the arts; 20664

(2) A regional arts and cultural district as defined in 20665
section 3381.01 of the Revised Code. 20666

(C) "Arts project" means all or any portion of an Ohio arts 20667
facility for which the general assembly has specifically 20668
authorized the spending of money, or made an appropriation, 20669
pursuant to division (D)(3) or (E) of section 3383.07 of the 20670
Revised Code. 20671

(D) "Cooperative contract" means a contract between the Ohio 20672
arts and sports facilities commission and an arts organization 20673
providing the terms and conditions of the cooperative use of an 20674
Ohio arts facility. 20675

(E) "Costs of operation" means amounts required to manage an 20676
Ohio arts facility that are incurred following the completion of 20677
construction of its arts project, provided that both of the 20678
following apply: 20679

(1) Those amounts either: 20680

(a) Have been committed to a fund dedicated to that purpose; 20681

(b) Equal the principal of any endowment fund, the income 20682
from which is dedicated to that purpose. 20683

(2) The commission and the arts organization have executed an 20684
agreement with respect to either of those funds. 20685

(F) "General building services" means general building 20686
services for an Ohio arts facility or an Ohio sports facility, 20687
including, but not limited to, general custodial care, security, 20688
maintenance, repair, painting, decoration, cleaning, utilities, 20689

fire safety, grounds and site maintenance and upkeep, and 20690
plumbing. 20691

(G) "Governmental agency" means a state agency, a 20692
state-supported or state-assisted institution of higher education, 20693
a municipal corporation, county, township, or school district, a 20694
port authority created under Chapter 4582. of the Revised Code, 20695
any other political subdivision or special district in this state 20696
established by or pursuant to law, or any combination of these 20697
entities; except where otherwise indicated, the United States or 20698
any department, division, or agency of the United States, or any 20699
agency, commission, or authority established pursuant to an 20700
interstate compact or agreement. 20701

(H) "Local contributions" means the value of an asset 20702
provided by or on behalf of an arts organization from sources 20703
other than the state, the value and nature of which shall be 20704
approved by the Ohio arts and sports facilities commission, in its 20705
sole discretion. "Local contributions" may include the value of 20706
the site where an arts project is to be constructed. All "local 20707
contributions," except a contribution attributable to such a site, 20708
shall be for the costs of construction of an arts project or the 20709
costs of operation of an arts facility. 20710

(I) "Local historical facility" means a site or facility, 20711
other than a state historical facility, of archaeological, 20712
architectural, environmental, or historical interest or 20713
significance, or a facility, including a storage facility, 20714
appurtenant to the operations of such a site or facility, that is 20715
owned by an arts organization, provided the facility meets the 20716
requirements of division (K)(2)(b) of this section, is managed by 20717
or pursuant to a contract with the Ohio arts and sports facilities 20718
commission, and is used for or in connection with the activities 20719
of the commission, including the presentation or making available 20720
of arts to the public. 20721

(J) "Manage," "operate," or "management" means the provision of, or the exercise of control over the provision of, activities:

(1) Relating to the arts for an Ohio arts facility, including as applicable, but not limited to, providing for displays, exhibitions, specimens, and models; booking of artists, performances, or presentations; scheduling; and hiring or contracting for directors, curators, technical and scientific staff, ushers, stage managers, and others directly related to the arts activities in the facility; but not including general building services;

(2) Relating to sports and athletic events for an Ohio sports facility, including as applicable, but not limited to, providing for booking of athletes, teams, and events; scheduling; and hiring or contracting for staff, ushers, managers, and others directly related to the sports and athletic events in the facility; but not including general building services.

(K) "Ohio arts facility" means any of the following:

(1) The three theaters located in the state office tower at 77 South High street in Columbus;

(2) Any capital facility in this state to which both of the following apply:

(a) The construction of an arts project related to the facility was authorized or funded by the general assembly pursuant to division (D)(3) of section 3383.07 of the Revised Code and proceeds of state bonds are used for costs of the arts project.

(b) The facility is managed directly by, or is subject to a cooperative or management contract with, the Ohio arts and sports facilities commission, and is used for or in connection with the activities of the commission, including the presentation or making available of arts to the public and the provision of training or

~~education in the arts. A cooperative or management contract shall 20752
be for a term not less than the time remaining to the date of 20753
payment or provision for payment of any state bonds issued to pay 20754
the costs of the arts project, as determined by the director of 20755
budget and management and certified by the director to the Ohio 20756
arts and sports facilities commission and to the Ohio building 20757
authority. 20758~~

(3) A state historical facility or a local historical 20759
facility. 20760

(L) "State agency" means the state or any of its branches, 20761
officers, boards, commissions, authorities, departments, 20762
divisions, or other units or agencies. 20763

(M) "Construction" includes acquisition, including 20764
acquisition by lease-purchase, demolition, reconstruction, 20765
alteration, renovation, remodeling, enlargement, improvement, site 20766
improvements, and related equipping and furnishing. 20767

(N) "State historical facility" means a site or facility of 20768
archaeological, architectural, environmental, or historical 20769
interest or significance, or a facility, including a storage 20770
facility, appurtenant to the operations of such a site or 20771
facility, that is owned by or is located on real property owned by 20772
the state or by an arts organization, so long as the real property 20773
of the arts organization is contiguous to state-owned real 20774
property that is in the care, custody, and control of an arts 20775
organization, and that is managed directly by or is subject to a 20776
cooperative or management contract with the Ohio arts and sports 20777
facilities commission and is used for or in connection with the 20778
activities of the commission, including the presentation or making 20779
available of arts to the public. 20780

(O) "Ohio sports facility" means all or a portion of a 20781
stadium, arena, or other capital facility in this state, a primary 20782

purpose of which is to provide a site or venue for the 20783
presentation to the public of events of one or more major or minor 20784
league professional athletic or sports teams that are associated 20785
with the state or with a city or region of the state, which 20786
facility is owned by or is located on real property owned by the 20787
state or a governmental agency, and including all parking 20788
facilities, walkways, and other auxiliary facilities, equipment, 20789
furnishings, and real and personal property and interests and 20790
rights therein, that may be appropriate for or used for or in 20791
connection with the facility or its operation, for capital costs 20792
of which state funds are spent pursuant to this chapter. A 20793
facility constructed as an Ohio sports facility may be both an 20794
Ohio arts facility and an Ohio sports facility. 20795

Sec. 3383.07. (A) The department of administrative services 20796
shall provide for the construction of an arts project in 20797
conformity with Chapter 153. of the Revised Code, except as 20798
follows: 20799

(1) For an arts project that has an estimated construction 20800
cost, excluding the cost of acquisition, of twenty-five million 20801
dollars or more, and that is financed by the Ohio building 20802
authority, construction services may be provided by the authority 20803
if the authority determines it should provide those services. 20804

(2) For an arts project other than a state historical 20805
facility, construction services may be provided on behalf of the 20806
state by the Ohio arts and sports facilities commission, or by a 20807
governmental agency or an arts organization that occupies, will 20808
occupy, or is responsible for the Ohio arts facility, as 20809
determined by the commission. Construction services to be provided 20810
by a governmental agency or an arts organization shall be 20811
specified in an agreement between the commission and the 20812
governmental agency or arts organization. The agreement, or any 20813

actions taken under it, are not subject to Chapter 123. or 153. of 20814
the Revised Code, except for sections 123.151 and 153.011 of the 20815
Revised Code, and shall be subject to Chapter 4115. of the Revised 20816
Code. 20817

(3) For an arts project that is a state historical facility, 20818
construction services may be provided by the Ohio arts and sports 20819
facilities commission or by an arts organization that occupies, 20820
will occupy, or is responsible for the facility, as determined by 20821
the commission. The construction services to be provided by the 20822
arts organization shall be specified in an agreement between the 20823
commission and the arts organization. That agreement, and any 20824
actions taken under it, are not subject to Chapter 123., 153., or 20825
4115. of the Revised Code. 20826

(B) For an Ohio sports facility that is financed in part by 20827
the Ohio building authority, construction services shall be 20828
provided on behalf of the state by or at the direction of the 20829
governmental agency or nonprofit corporation that will own or be 20830
responsible for the management of the facility, all as determined 20831
by the Ohio arts and sports facilities commission. Any 20832
construction services to be provided by a governmental agency or 20833
nonprofit corporation shall be specified in an agreement between 20834
the commission and the governmental agency or nonprofit 20835
corporation. That agreement, and any actions taken under it, are 20836
not subject to Chapter 123. or 153. of the Revised Code, except 20837
for sections 123.151 and 153.011 of the Revised Code, and shall be 20838
subject to Chapter 4115. of the Revised Code. 20839

(C) General building services for an Ohio arts facility shall 20840
be provided by the Ohio arts and sports facilities commission or 20841
by an arts organization that occupies, will occupy, or is 20842
responsible for the facility, as determined by the commission, 20843
except that the Ohio building authority may elect to provide those 20844
services for Ohio arts facilities financed with proceeds of state 20845

bonds issued by the authority. The costs of management and general 20846
building services shall be paid by the arts organization that 20847
occupies, will occupy, or is responsible for the facility as 20848
provided in an agreement between the commission and the arts 20849
organization, except that the state may pay for general building 20850
services for state-owned arts facilities constructed on 20851
state-owned land. 20852

General building services for an Ohio sports facility shall 20853
be provided by or at the direction of the governmental agency or 20854
nonprofit corporation that will be responsible for the management 20855
of the facility, all as determined by the commission. Any general 20856
building services to be provided by a governmental agency or 20857
nonprofit corporation for an Ohio sports facility shall be 20858
specified in an agreement between the commission and the 20859
governmental agency or nonprofit corporation. That agreement, and 20860
any actions taken under it, are not subject to Chapter 123. or 20861
153. of the Revised Code, except for sections 123.151 and 153.011 20862
of the Revised Code, and shall be subject to Chapter 4115. of the 20863
Revised Code. 20864

(D) This division does not apply to a state historical 20865
facility. No state funds, including any state bond proceeds, shall 20866
be spent on the construction of any arts project under this 20867
chapter unless, with respect to the arts project and to the Ohio 20868
arts facility related to the project, all of the following apply: 20869

(1) The Ohio arts and sports facilities commission has 20870
determined that there is a need for the arts project and the Ohio 20871
arts facility related to the project in the region of the state in 20872
which the Ohio arts facility is located or for which the facility 20873
is proposed. 20874

(2) The commission has determined that, as an indication of 20875
substantial regional support for the arts project, the arts 20876
organization has made provision satisfactory to the commission, in 20877

its sole discretion, for local contributions amounting to not less than fifty per cent of the total state funding for the arts project.

(3) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the arts project, or for rental payments relating to the financing of the construction of the arts project. Authorization to spend money, or an appropriation, for planning the arts project does not constitute authorization to spend money on, or an appropriation for, construction of the arts project.

(E) No state funds, including any state bond proceeds, shall be spent on the construction of any state historical facility under this chapter unless the general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the arts project related to the facility, or for rental payments relating to the financing of the construction of the arts project. Authorization to spend money, or an appropriation, for planning the arts project does not constitute authorization to spend money on, or an appropriation for, the construction of the arts project.

(F) State funds shall not be used to pay or reimburse more than fifteen per cent of the initial estimated construction cost of an Ohio sports facility, excluding any site acquisition cost, and no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility under this chapter unless, with respect to that facility, all of the following apply:

(1) The Ohio arts and sports facilities commission has determined that there is a need for the facility in the region of the state for which the facility is proposed to provide the function of an Ohio sports facility as provided for in this chapter.

(2) As an indication of substantial local support for the facility, the commission has received a financial and development plan satisfactory to it, and provision has been made, by agreement or otherwise, satisfactory to the commission, for a contribution amounting to not less than eighty-five per cent of the total estimated construction cost of the facility, excluding any site acquisition cost, from sources other than the state.

(3) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the facility, or for rental payments relating to state financing of all or a portion of the costs of constructing the facility. Authorization to spend money, or an appropriation, for planning or determining the feasibility of or need for the facility does not constitute authorization to spend money on, or an appropriation for, costs of constructing the facility.

(4) If state bond proceeds are being used for the Ohio sports facility, the state or a governmental agency owns or has sufficient property interests in the facility or in the site of the facility or in the portion or portions of the facility financed from proceeds of state bonds, which may include, but is not limited to, the right to use or to require the use of the facility for the presentation of sport and athletic events to the public at the facility, ~~extending for a period of not less than the greater of the useful life of the portion of the facility financed from proceeds of those bonds as determined using the guidelines for maximum maturities as provided under divisions (B), (C), and (D) of section 133.20 of the Revised Code, or the period of time remaining to the date of payment or provision for payment of outstanding state bonds allocable to costs of the facility, all as determined by the director of budget and management and certified by the director to the Ohio arts and sports facilities commission and to the Ohio building authority.~~

Sec. 3501.18. (A) The board of elections may divide a 20941
political subdivision, within its jurisdiction, into precincts 20942
~~and~~, establish, define, divide, rearrange, and combine the several 20943
election precincts within its jurisdiction, and change the 20944
location of the polling place for each precinct when it is 20945
necessary to maintain the requirements as to the number of voters 20946
in a precinct and to provide for the convenience of the voters and 20947
the proper conduct of elections, ~~provided that no.~~ No change in 20948
the number of precincts or in precinct boundaries shall be made 20949
during the twenty-five days immediately preceding a primary or 20950
general election ~~nor~~ or between the first day of January and the 20951
day on which the members of county central committees are elected 20952
in the years in which those committees are elected. Except as 20953
otherwise provided in division (C) of this section, each precinct 20954
shall contain a number of electors, not to exceed one thousand 20955
four hundred, that the board of elections determines to be a 20956
reasonable number after taking into consideration the type and 20957
amount of available equipment, prior voter turnout, the size and 20958
location of each selected polling place, available parking, 20959
availability of an adequate number of poll workers, and handicap 20960
accessibility and other accessibility to the polling place. 20961

If the board changes the boundaries of a precinct after the 20962
filing of a local option election petition pursuant to sections 20963
4301.32 to 4301.41, 4303.29, or 4305.14 of the Revised Code that 20964
calls for a local option election to be held in that precinct, the 20965
local option election shall be held in the area that constituted 20966
the precinct at the time the local option petition was filed, 20967
regardless of the change in the boundaries. 20968

If the board changes the boundaries of a precinct in order to 20969
meet the requirements of division (B)(1) of this section in a 20970
manner that causes a member of a county central committee to no 20971

longer qualify as a representative of an election precinct in the 20972
county, of a ward of a city in the county, or of a township in the 20973
county, the member shall continue to represent the precinct, ward, 20974
or township for the remainder of the member's term, regardless of 20975
the change in boundaries. 20976

In an emergency, the board may provide more than one polling 20977
place in a precinct. In order to provide for the convenience of 20978
the voters, the board may locate polling places for voting or 20979
registration outside the boundaries of precincts, provided that 20980
the nearest public school or public building shall be used if the 20981
board determines it to be available and suitable for use as a 20982
polling place. Except in an emergency, no change in the number or 20983
location of the polling places in a precinct shall be made during 20984
the twenty-five days immediately preceding a primary or general 20985
election. 20986

Electors who have failed to respond within thirty days to any 20987
confirmation notice shall not be counted in determining the size 20988
of any precinct under this section. 20989

(B)(1) Except as otherwise provided in division (B)(2) ~~or (3)~~ 20990
of this section, ~~not later than August 1, 2000,~~ the a board of 20991
elections shall determine all precinct boundaries using 20992
geographical units used by the United States department of 20993
commerce, bureau of the census, in reporting the decennial census 20994
of Ohio. 20995

~~(2) When any part of the boundary of a precinct also forms a 20996
part of the boundary of a legislative district and the precinct 20997
boundary cannot be determined by August 1, 2000, using the 20998
geographical units described in division (B)(1) of this section 20999
without making that part of the precinct boundary that also forms 21000
part of the legislative district boundary different from that 21001
legislative district boundary, the board of elections may 21002
determine the boundary of that precinct using the geographical 21003~~

~~units described in division (B)(1) of this section not later than 21004
April 1, 2002. As used in this division, legislative district 21005
means a district determined under Article XI of the Ohio 21006
Constitution. 21007~~

(3) The board of elections may apply to the secretary of 21008
state for a waiver from the requirement of division (B)(1) of this 21009
section when it is not feasible to comply with that requirement 21010
because of unusual physical boundaries or residential development 21011
practices that would cause unusual hardship for voters. The board 21012
shall identify the affected precincts and census units, explain 21013
the reason for the waiver request, and include a map illustrating 21014
where the census units will be split because of the requested 21015
waiver. If the secretary of state approves the waiver and so 21016
notifies the board of elections in writing, the board may change a 21017
precinct boundary as necessary under this section, notwithstanding 21018
the requirement in division (B)(1) of this section. 21019

(C) The board of elections may apply to the secretary of 21020
state for a waiver from the requirement of division (A) of this 21021
section regarding the number of electors in a precinct when the 21022
use of geographical units used by the United States department of 21023
commerce, bureau of the census, will cause a precinct to contain 21024
more than one thousand four hundred electors. The board shall 21025
identify the affected precincts and census units, explain the 21026
reason for the waiver request, and include a map illustrating 21027
where census units will be split because of the requested waiver. 21028
If the secretary of state approves the waiver and so notifies the 21029
board of elections in writing, the board may change a precinct 21030
boundary as necessary to meet the requirements of division (B)(1) 21031
of this section. 21032

Sec. 3501.30. (A) The board of elections shall provide for 21033
each polling place the necessary ballot boxes, official ballots, 21034

cards of instructions, registration forms, pollbooks, or poll 21035
lists, tally sheets, forms on which to make summary statements, 21036
writing implements, paper, and all other supplies necessary for 21037
casting and counting the ballots and recording the results of the 21038
voting at ~~such~~ the polling place. ~~Such~~ The pollbooks or poll lists 21039
shall have certificates appropriately printed ~~thereon~~ on them for 21040
the signatures of all the precinct officials, by which they shall 21041
certify that, to the best of their knowledge and belief, ~~said~~ the 21042
pollbooks or poll lists correctly show the names of all electors 21043
who voted in ~~such~~ the polling place at the election indicated 21044
~~therein~~ in the pollbook or poll list. 21045

A All of the following shall be included among the supplies 21046
provided to each polling place: 21047

(1) A large map of each appropriate precinct shall be 21048
~~included among the supplies to each polling place,~~ which shall be 21049
displayed prominently to assist persons who desire to register or 21050
vote on election day. Each map shall show all streets within the 21051
precinct and contain identifying symbols of the precinct in bold 21052
print. 21053

~~Such supplies shall also include a~~ (2) Any materials, 21054
postings, or instructions required to comply with state or federal 21055
laws; 21056

(3) A flag of the United States approximately two and 21057
one-half feet in length along the top, which shall be displayed 21058
outside the entrance to the polling place during the time it is 21059
open for voting. ~~Two;~~ 21060

(4) Two or more small flags of the United States 21061
approximately fifteen inches in length along the top ~~shall be~~ 21062
~~provided and,~~ which shall be placed at a distance of one hundred 21063
feet from the polling place on the thoroughfares or walkways 21064
leading to the polling place, to mark the distance within which 21065

persons other than election officials, witnesses, challengers, 21066
police officers, and electors waiting to mark, marking, or casting 21067
their ballots shall not loiter, congregate, or engage in any kind 21068
of election campaigning. Where small flags cannot reasonably be 21069
placed one hundred feet from the polling place, the presiding 21070
election judge shall place the flags as near to one hundred feet 21071
from the entrance to the polling place as is physically possible. 21072
Police officers and all election officials shall see that this 21073
prohibition against loitering and congregating is enforced. ~~When~~ 21074

When the period of time during which the polling place is 21075
open for voting expires, all of ~~said the~~ flags described in this 21076
division shall be taken into the polling place, and shall be 21077
returned to the board together with all other election ~~materials~~ 21078
~~and~~ supplies required to be delivered to ~~such the~~ board. 21079

(B) The board of elections shall follow the instructions and 21080
advisories of the secretary of state in the production and use of 21081
polling place supplies. 21082

Sec. 3505.08. (A) Ballots shall be provided by the board of 21083
elections for all general and special elections. ~~Such~~ The ballots 21084
shall be printed with black ink on No. 2 white book paper fifty 21085
pounds in weight per ream assuming such ream to consist of five 21086
hundred sheets of such paper twenty-five by thirty-eight inches in 21087
size. Each ballot shall have attached at the top two stubs, each 21088
of the width of the ballot and not less than one-half inch in 21089
length, except that, if the board of elections has an alternate 21090
method to account for the ballots that the secretary of state has 21091
authorized, each ballot may have only one stub that shall be the 21092
width of the ballot and not less than one-half inch in length. In 21093
the case of ballots with two stubs, the stubs shall be separated 21094
from the ballot and from each other by perforated lines. The top 21095
stub shall be known as Stub B and shall have printed on its face 21096

"Stub B." The other stub shall be known as Stub A and shall have 21097
printed on its face "Stub A." Each stub shall also have printed on 21098
its face "Consecutive Number" ~~Each~~ 21099

Each ballot of each kind of ballot provided for use in each 21100
precinct shall be numbered consecutively beginning with number 1 21101
by printing such number upon both of the stubs attached ~~thereto~~ to 21102
the ballot. On ballots bearing the names of candidates, each 21103
candidate's name shall be printed in twelve point boldface upper 21104
case type in an enclosed rectangular space, and an enclosed blank 21105
rectangular space shall be provided at the left ~~thereof~~ of the 21106
candidate's name. The name of the political party of a candidate 21107
nominated at a primary election or certified by a party committee 21108
shall be printed in ten point lightface upper and lower case type 21109
and shall be separated by a two point blank space. The name of 21110
each candidate shall be indented one space within ~~such~~ the 21111
enclosed rectangular space, and the name of the political party 21112
shall be indented two spaces within ~~such~~ the enclosed rectangular 21113
space. ~~The~~ 21114

The title of each office on ~~such~~ the ballots shall be printed 21115
in twelve point boldface upper and lower case type in a separate 21116
enclosed rectangular space. A four point rule shall separate the 21117
name of a candidate or a group of candidates for the same office 21118
from the title of the office next appearing below on the ballot, 21119
~~and~~; a two point rule shall separate the title of the office from 21120
the names of candidates; and a one point rule shall separate names 21121
of candidates. Headings shall be printed in display Roman type. 21122
When the names of several candidates are grouped together as 21123
candidates for the same office, there shall be printed on ~~such~~ the 21124
ballots immediately below the title of ~~such~~ the office and within 21125
the separate rectangular space in which ~~such~~ the title is printed 21126
"Vote for not more than", in six point boldface upper and 21127
lower case filling the blank space with that number which will 21128

indicate the number of persons who may be lawfully elected to ~~such~~ 21129
the office. 21130

Columns on ballots shall be separated from each other by a 21131
heavy vertical border or solid line at least one-eighth of an inch 21132
wide, and a similar vertical border or line shall enclose the left 21133
and right side of ballots, ~~and ballots~~. Ballots shall be trimmed 21134
along the sides close to such lines. 21135

The ballots provided for by this section shall be comprised 21136
of four kinds of ballots designated as follows: ~~(A)~~ office type 21137
ballot; ~~(B)~~ nonpartisan ballot; ~~(C)~~ questions and issues ballot; 21138
~~(D)~~ and presidential ballot. 21139

On the back of each office type ballot shall be printed 21140
"Official Office Type Ballot;" on the back of each nonpartisan 21141
ballot shall be printed "Official Nonpartisan Ballot;" on the back 21142
of each questions and issues ballot shall be printed "Official 21143
Questions and Issues Ballot;" and on the back of each presidential 21144
ballot shall be printed "Official Presidential Ballot." On the 21145
back of every ballot also shall be printed the date of the 21146
election at which the ballot is used and the facsimile signatures 21147
of the members of the board of the county in which the ballot is 21148
used. For the purpose of identifying the kind of ballot, the back 21149
of every ballot may be numbered in ~~such~~ the order ~~as~~ the board 21150
shall determine. ~~Such~~ The numbers shall be printed in not less 21151
than thirty-six point type above the words "Official Office Type 21152
Ballot," "Official Nonpartisan Ballot," "Official Questions and 21153
Issues Ballot," or "Official Presidential Ballot," as the case may 21154
be. Ballot boxes bearing corresponding numbers shall be furnished 21155
for each precinct in which the above-described numbered ballots 21156
are used. 21157

On the back of every ballot used, there shall be a solid 21158
black line printed opposite the blank rectangular space that is 21159
used to mark the choice of the voter. This line shall be printed 21160

wide enough so that the mark in the blank rectangular space will 21161
not be visible from the back side of the ballot. 21162

Sample ballots may be printed by the board of elections for 21163
all general elections. ~~Such~~ The ballots shall be printed on 21164
colored paper, and "Sample Ballot" shall be plainly printed in 21165
boldface type on the face of each ballot. In counties of less than 21166
one hundred thousand population, the board may print not more than 21167
five hundred sample ballots; in all other counties, it may print 21168
not more than one thousand sample ballots. ~~Such~~ The sample ballots 21169
shall not be distributed by a political party or a candidate, nor 21170
shall a political party or candidate cause their title or name to 21171
be imprinted ~~thereon~~ on sample ballots. 21172

(B) Notwithstanding division (A) of this section, in 21173
approving the form of an official ballot, the secretary of state 21174
may authorize the use of fonts, type face settings, and ballot 21175
formats other than those prescribed in that division. 21176

Sec. 3517.092. (A) As used in this section: 21177

(1) "Appointing authority" has the same meaning as in section 21178
124.01 of the Revised Code. 21179

(2) "State elected officer" means any person appointed or 21180
elected to a state elective office. 21181

(3) "State elective office" means any of the offices of 21182
governor, lieutenant governor, secretary of state, auditor of 21183
state, treasurer of state, attorney general, member of the state 21184
board of education, member of the general assembly, and justice 21185
and chief justice of the supreme court. 21186

(4) "County elected officer" means any person appointed or 21187
elected to a county elective office. 21188

(5) "County elective office" means any of the offices of 21189
county auditor, county treasurer, clerk of the court of common 21190

pleas, sheriff, county recorder, county engineer, county
commissioner, prosecuting attorney, and coroner.

(6) "Contribution" includes a contribution to any political
party, campaign committee, political action committee, political
contributing entity, or legislative campaign fund.

(B) No state elected officer, no campaign committee of such
an officer, and no other person or entity shall knowingly solicit
or accept a contribution on behalf of that officer or that
officer's campaign committee from any of the following:

(1) A state employee whose appointing authority is the state
elected officer;

(2) A state employee whose appointing authority is authorized
or required by law to be appointed by the state elected officer;

(3) A state employee who functions in or is employed in or by
the same public agency, department, division, or office as the
state elected officer.

(C) No candidate for a state elective office, no campaign
committee of such a candidate, and no other person or entity shall
knowingly solicit or accept a contribution on behalf of that
candidate or that candidate's campaign committee from any of the
following:

(1) A state employee at the time of the solicitation, whose
appointing authority will be the candidate, if elected;

(2) A state employee at the time of the solicitation, whose
appointing authority will be appointed by the candidate, if
elected, as authorized or required by law;

(3) A state employee at the time of the solicitation, who
will function in or be employed in or by the same public agency,
department, division, or office as the candidate, if elected.

(D) No county elected officer, no campaign committee of such

an officer, and no other person or entity shall knowingly solicit 21221
a contribution on behalf of that officer or that officer's 21222
campaign committee from any of the following: 21223

(1) A county employee whose appointing authority is the 21224
county elected officer; 21225

(2) A county employee whose appointing authority is 21226
authorized or required by law to be appointed by the county 21227
elected officer; 21228

(3) A county employee who functions in or is employed in or 21229
by the same public agency, department, division, or office as the 21230
county elected officer. 21231

(E) No candidate for a county elective office, no campaign 21232
committee of such a candidate, and no other person or entity shall 21233
knowingly solicit a contribution on behalf of that candidate or 21234
that candidate's campaign committee from any of the following: 21235

(1) A county employee at the time of the solicitation, whose 21236
appointing authority will be the candidate, if elected; 21237

(2) A county employee at the time of the solicitation, whose 21238
appointing authority will be appointed by the candidate, if 21239
elected, as authorized or required by law; 21240

(3) A county employee at the time of the solicitation, who 21241
will function in or be employed in or by the same public agency, 21242
department, division, or office as the candidate, if elected. 21243

(F)(1) No public employee shall solicit a contribution from 21244
any person while the public employee is performing the public 21245
employee's official duties or in those areas of a public building 21246
where official business is transacted or conducted. 21247

(2) No person shall solicit a contribution from any public 21248
employee while the public employee is performing the public 21249
employee's official duties or is in those areas of a public 21250

building where official business is transacted or conducted.	21251
(3) As used in division (F) of this section, "public employee" does not include any person holding an elective office.	21252 21253
(G) The prohibitions in divisions (B), (C), (D), (E), and (F) of this section are in addition to the prohibitions in sections 124.57, 1553.09 , 3304.22, and 4503.032 of the Revised Code.	21254 21255 21256
Sec. 3701.021. (A) The public health council shall adopt, in accordance with Chapter 119. of the Revised Code, such rules as are necessary to carry out sections 3701.021 to 3701.028 <u>3701.0210</u> of the Revised Code, including, but not limited to, rules to establish the following:	21257 21258 21259 21260 21261
(1) Medical and financial eligibility requirements for the program for medically handicapped children;	21262 21263
(2) Eligibility requirements for providers of services for medically handicapped children;	21264 21265
(3) Procedures to be followed by the department of health in disqualifying providers for violating requirements adopted under division (A)(2) of this section;	21266 21267 21268
(4) Procedures to be used by the department regarding application for diagnostic services under division (B) of section 3701.023 of the Revised Code and payment for those services under division (E) of that section;	21269 21270 21271 21272
(5) Standards for the provision of service coordination by the department of health and city and general health districts;	21273 21274
(6) Procedures for the department to use to determine the amount to be paid annually by each county for services for medically handicapped children and to allow counties to retain funds under divisions (A)(2) and (3) of section 3701.024 of the Revised Code;	21275 21276 21277 21278 21279

(7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis;	21280 21281 21282
(8) Criteria for payment of approved providers who provide services for medically handicapped children;	21283 21284
(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective;	21285 21286 21287
(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;	21288 21289 21290
(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;	21291 21292 21293
<u>(12) Eligibility requirements for the hemophilia program, including income and hardship requirements.</u>	21294 21295
(B) The department of health shall develop a manual of operational procedures and guidelines for the program for medically handicapped children to implement sections 3701.021 to 3701.028 <u>3701.0210</u> of the Revised Code.	21296 21297 21298 21299
Sec. 3701.022. As used in sections 3701.021 to 3701.028 <u>3701.0210</u> of the Revised Code:	21300 21301
(A) "Medically handicapped child" means an Ohio resident under twenty-one years of age who suffers primarily from an organic disease, defect, or a congenital or acquired physically handicapping and associated condition that may hinder the achievement of normal growth and development.	21302 21303 21304 21305 21306
(B) "Provider" means a health professional, hospital, medical equipment supplier, and any individual, group, or agency that is	21307 21308

approved by the department of health pursuant to division (C) of 21309
section 3701.023 of the Revised Code and that provides or intends 21310
to provide goods or services to a child who is eligible for the 21311
program for medically handicapped children. 21312

(C) "Service coordination" means case management services 21313
provided to medically handicapped children that promote effective 21314
and efficient organization and utilization of public and private 21315
resources and ensure that care rendered is family-centered, 21316
community-based, and coordinated. 21317

(D)(1) "Third party" means any person or government entity 21318
other than the following: 21319

(a) A medically handicapped child participating in the 21320
program for medically handicapped children or the child's parent 21321
or guardian; 21322

(b) The department or any program administered by the 21323
department, including the "Maternal and Child Health Block Grant," 21324
Title V of the "Social Security Act," 95 Stat. 818 (1981), 42 21325
U.S.C.A. 701, as amended; 21326

(c) The "caring program for children" operated by the 21327
nonprofit community mutual insurance corporation. 21328

(2) "Third party" includes all of the following: 21329

(a) Any trust established to benefit a medically handicapped 21330
child participating in the program or the child's family or 21331
guardians, if the trust was established after the date the 21332
medically handicapped child applied to participate in the program; 21333

(b) That portion of a trust designated to pay for the medical 21334
and ancillary care of a medically handicapped child, if the trust 21335
was established on or before the date the medically handicapped 21336
child applied to participate in the program; 21337

(c) The program awarding reparations to victims of crime 21338

established under sections 2743.51 to 2743.72 of the Revised Code. 21339

(E) "Third-party benefits" means any and all benefits paid by 21340
a third party to or on behalf of a medically handicapped child 21341
participating in the program or the child's parent or guardian for 21342
goods or services that are authorized by the department pursuant 21343
to division (B) or (D) of section 3701.023 of the Revised Code. 21344

(F) "Hemophilia program" means the hemophilia program the 21345
department of health is required to establish and administer under 21346
section 3701.029 of the Revised Code. 21347

Sec. 3701.029. Subject to available funds, the department of 21348
health shall establish and administer a hemophilia program to 21349
provide payment of health insurance premiums for Ohio residents 21350
who meet all of the following requirements: 21351

(A) Have been diagnosed with hemophilia or a related bleeding 21352
disorder; 21353

(B) Are at least twenty-one years of age; 21354

(C) Meet the eligibility requirements established by rules 21355
adopted under division (A)(12) of section 3701.021 of the Revised 21356
Code. 21357

Sec. ~~3701.145~~ 3701.0210. The ~~director of health~~ medically 21358
handicapped children's medical advisory council shall ~~establish~~ 21359
appoint a hemophilia advisory ~~council~~ subcommittee to advise the 21360
director ~~and the department~~ of health and council on all matters 21361
pertaining to the care and treatment of persons with hemophilia. 21362
The ~~council~~ subcommittee shall consist of not fewer than ~~nineteen~~ 21363
fifteen members, each of whom shall be appointed ~~by the director~~ 21364
to terms of four years. The members of the ~~council~~ subcommittee 21365
shall elect a chairperson from among the appointed membership to 21366
serve a term of two years. Members of the ~~council~~ subcommittee 21367
shall serve without compensation, except that they may be 21368

reimbursed for travel expenses to and from meetings of the ~~council~~ 21369
subcommittee. 21370

Members shall be appointed to represent all geographic areas 21371
of this state. Not fewer than five members of the ~~council~~ 21372
subcommittee shall be persons with hemophilia or family members of 21373
persons with hemophilia. Not fewer than five members shall be 21374
providers of health care services to persons with hemophilia. Not 21375
fewer than five members shall be experts in fields of importance 21376
to treatment of persons with hemophilia, including experts in 21377
infectious diseases, insurance, and law. 21378

~~The council shall submit to the director of health, the 21379
governor, and the general assembly, a report no later than the 21380
thirtieth day of September of each year summarizing the current 21381
status and needs of persons in this state with hemophilia and of 21382
family members of persons with hemophilia. 21383~~

Notwithstanding section 101.83 of the Revised Code, that 21384
section does not apply to the medically handicapped children's 21385
medical advisory council hemophilia advisory subcommittee, and the 21386
subcommittee shall not expire under that section. 21387

Sec. 3701.141. (A) There is hereby created in the department 21388
of health the ~~office of women's health initiatives program,~~ 21389
~~consisting of the chief of the office and an administrative 21390
assistant. To the extent of available funds, other positions 21391
determined necessary and relevant by the director of health may be 21392
added. The administrative assistant and all other employees 21393
assigned to the office shall report to the chief and the chief to 21394
the director or the deputy specified by the director. 21395~~

(B) To the extent funds are available, the ~~office of women's 21396
health initiatives program~~ shall: 21397

(1) Identify, review, and assist the director in the 21398

coordination of programs and resources the department of health is 21399
committing to women's health concerns, including the department's 21400
women's and infants' program activities; 21401

(2) Advocate for women's health by requesting that the 21402
department conduct, sponsor, encourage, or fund research; 21403
establish additional programs regarding women's health concerns as 21404
needed; and monitor the research and program efforts; 21405

(3) Collect, classify, and store relevant research conducted 21406
by the department or other entities, and provide, unless otherwise 21407
prohibited by law, interested persons access to research results; 21408

(4) ~~Generate~~ Apply for grant ~~activities~~ opportunities. 21409

~~(C) Prior to the director's report to the governor on the 21410
department's biennial budget request, the office of women's health 21411
initiatives shall submit in writing to the director of health a 21412
biennial report of recommended programs, projects, and research to 21413
address critical issues in women's health. 21414~~

Sec. 3702.31. (A) The quality monitoring and inspection fund 21415
is hereby created in the state treasury. The director of health 21416
shall use the fund to administer and enforce this section and 21417
sections 3702.11 to 3702.20, 3702.30, and 3702.32 of the Revised 21418
Code and rules adopted pursuant to those sections. The director 21419
shall deposit in the fund any moneys collected pursuant to this 21420
section or section 3702.32 of the Revised Code. All investment 21421
earnings of the fund shall be credited to the fund. 21422

(B) The director of health shall adopt rules pursuant to 21423
Chapter 119. of the Revised Code establishing fees for both of the 21424
following: 21425

(1) Initial and renewal license applications submitted under 21426
section 3702.30 of the Revised Code. The fees established under 21427
division (B)(1) of this section shall not exceed the actual and 21428

necessary costs of performing the activities described in division 21429
(A) of this section. 21430

(2) Inspections conducted under section 3702.15 or 3702.30 of 21431
the Revised Code. The fees established under division (B)(2) of 21432
this section shall not exceed the actual and necessary costs 21433
incurred during an inspection, including any indirect costs 21434
incurred by the department for staff, salary, or other 21435
administrative costs. The director of health shall provide to each 21436
health care facility or provider inspected pursuant to section 21437
3702.15 or 3702.30 of the Revised Code a written statement of the 21438
fee. The statement shall itemize and total the costs incurred. 21439
Within fifteen days after receiving a statement from the director, 21440
the facility or provider shall forward the total amount of the fee 21441
to the director. 21442

(3) The fees described in divisions (B)(1) and (2) of this 21443
section shall meet both of the following requirements: 21444

(a) For each service described in section 3702.11 of the 21445
Revised Code, the fee shall not exceed one thousand ~~two~~ seven 21446
hundred fifty dollars annually, except that the total fees charged 21447
to a health care provider under this section shall not exceed five 21448
thousand dollars annually. 21449

(b) The fee shall exclude any costs reimbursable by the 21450
United States health care financing administration as part of the 21451
certification process for the medicare program established under 21452
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 21453
U.S.C.A. 301, as amended, and the medicaid program established 21454
under Title XIX of that act. 21455

(4) The director shall not establish a fee for any service 21456
for which a licensure or inspection fee is paid by the health care 21457
provider to a state agency for the same or similar licensure or 21458
inspection. 21459

Sec. 3702.63. As specified in former Section 11 of Am. Sub. S.B. 50 of the 121st general assembly, as amended by Am. Sub. H.B. 405 of the 124th general assembly, all of the following apply:

(A) The removal of former divisions (E) and (F) of section 3702.52 of the Revised Code by Sections 1 and 2 of Am. Sub. S.B. 50 of the 121st general assembly does not release the holders of certificates of need issued under those divisions from complying with any conditions on which the granting of the certificates of need was based, including the requirement of former division (E)(6) of that section that the holders not enter into provider agreements under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, for at least ten years following initial licensure of the long-term care facilities for which the certificates were granted.

(B) The repeal of section 3702.55 of the Revised Code by Section 2 of Am. Sub. S.B. 50 of the 121st general assembly does not release the holders of certificates of need issued under that section from complying with any conditions on which the granting of the certificates of need was based, other than the requirement of division (A)(6) of that section that the holders not seek certification under Title XVIII of the "Social Security Act" for beds recategorized under the certificates. That repeal also does not eliminate the requirement that the director of health revoke the licensure of the beds under Chapter 3721. of the Revised Code if a person to which their ownership is transferred fails, as required by division (A)(6) of the repealed section, to file within ten days after the transfer a sworn statement not to seek certification under Title XIX of the "Social Security Act" for beds recategorized under the certificates of need.

(C) The repeal of section 3702.56 of the Revised Code by

Section 2 of Am. Sub. S.B. 50 of the 121st general assembly does 21491
not release the holders of certificates of need issued under that 21492
section from complying with any conditions on which the granting 21493
of the certificates of need was based. 21494

Sec. 3702.68. (A) Notwithstanding sections 3702.51 to 3702.62 21495
of the Revised Code, this section applies to the review of 21496
certificate of need applications during the period beginning July 21497
1, 1993, and ending June 30, ~~2003~~ 2005. 21498

(B)(1) Except as provided in division (B)(2) of this section, 21499
the director of health shall neither grant nor deny any 21500
application for a certificate of need submitted prior to July 1, 21501
1993, if the application was for any of the following and the 21502
director had not issued a written decision concerning the 21503
application prior to that date: 21504

(a) Approval of beds in a new health care facility or an 21505
increase of beds in an existing health care facility, if the beds 21506
are proposed to be licensed as nursing home beds under Chapter 21507
3721. of the Revised Code; 21508

(b) Approval of beds in a new county home or new county 21509
nursing home as defined in section 5155.31 of the Revised Code, or 21510
an increase of beds in an existing county home or existing county 21511
nursing home, if the beds are proposed to be certified as skilled 21512
nursing facility beds under Title XVIII or nursing facility beds 21513
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 21514
42 U.S.C.A. 301, as amended; 21515

(c) Recategorization of hospital beds as described in section 21516
3702.522 of the Revised Code, an increase of hospital beds 21517
registered pursuant to section 3701.07 of the Revised Code as 21518
long-term care beds or skilled nursing facility beds, or a 21519
recategorization of hospital beds that would result in an increase 21520
of beds registered pursuant to that section as long-term care beds 21521

or skilled nursing facility beds. 21522

On July 1, 1993, the director shall return each such 21523
application to the applicant and, notwithstanding section 3702.52 21524
of the Revised Code regarding the uses of the certificate of need 21525
fund, shall refund to the applicant the application fee paid under 21526
that section. Applications returned under division (B)(1) of this 21527
section may be resubmitted in accordance with section 3702.52 of 21528
the Revised Code no sooner than July 1, ~~2003~~ 2005. 21529

(2) The director shall continue to review and shall issue a 21530
decision regarding any application submitted prior to July 1, 21531
1993, to increase beds for either of the purposes described in 21532
division (B)(1)(a) or (b) of this section if the proposed increase 21533
in beds is attributable solely to a replacement or relocation of 21534
existing beds within the same county. The director shall authorize 21535
under such an application no additional beds beyond those being 21536
replaced or relocated. 21537

(C)(1) Except as provided in division (C)(2) of this section, 21538
the director, during the period beginning July 1, 1993, and ending 21539
June 30, ~~2003~~ 2005, shall not accept for review under section 21540
3702.52 of the Revised Code any application for a certificate of 21541
need for any of the purposes described in divisions (B)(1)(a) to 21542
(c) of this section. 21543

(2) The director shall accept for review any application for 21544
either of the purposes described in division (B)(1)(a) or (b) of 21545
this section if the proposed increase in beds is attributable 21546
solely to a replacement or relocation of existing beds within the 21547
same county. The director shall authorize under such an 21548
application no additional beds beyond those being replaced or 21549
relocated. The director also shall accept for review any 21550
application that seeks certificate of need approval for existing 21551
beds located in an infirmary that is operated exclusively by a 21552
religious order, provides care exclusively to members of religious 21553

orders who take vows of celibacy and live by virtue of their vows 21554
within the orders as if related, and was providing care 21555
exclusively to members of such a religious order on January 1, 21556
1994. 21557

(D) The director shall issue a decision regarding any case 21558
remanded by a court as the result of a decision issued by the 21559
director prior to July 1, 1993, to grant, deny, or withdraw a 21560
certificate of need for any of the purposes described in divisions 21561
(B)(1)(a) to (c) of this section. 21562

(E) The director shall not project the need for beds listed 21563
in division (B)(1) of this section for the period beginning July 21564
1, 1993, and ending June 30, ~~2003~~ 2005. 21565

This section is an interim section effective until July 1, 21566
~~2003~~ 2005. 21567

Sec. 3702.74. (A) A primary care physician who has signed a 21568
letter of intent under section 3702.73 of the Revised Code, the 21569
director of health, and the Ohio board of regents may enter into a 21570
contract for the physician's participation in the physician loan 21571
repayment program. A lending institution may also be a party to 21572
the contract. 21573

(B) The contract shall include all of the following 21574
obligations: 21575

(1) The primary care physician agrees to provide primary care 21576
services in the health resource shortage area identified in the 21577
letter of intent for at least two years or one year per twenty 21578
thousand dollars of repayment agreed to under division (B)(3) of 21579
this section, whichever is greater; 21580

(2) When providing primary care services in the health 21581
resource shortage area, the primary care physician agrees to do 21582
all of the following: 21583

(a) Provide primary care services for a minimum of forty hours per week;	21584 21585
(b) Provide primary care services without regard to a patient's ability to pay;	21586 21587
(c) Meet the conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the department of job and family services for participation in the medical assistance program established under Chapter 5111. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of the medical assistance program;	21588 21589 21590 21591 21592 21593 21594
(d) Meet the conditions established by the department of job and family services for participation in the disability assistance medical assistance program established under Chapter 5115. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of disability <u>medical</u> assistance.	21595 21596 21597 21598 21599 21600
(3) The Ohio board of regents agrees, as provided in section 3702.75 of the Revised Code, to repay, so long as the primary care physician performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the primary care physician for expenses described in section 3702.75 of the Revised Code;	21601 21602 21603 21604 21605 21606 21607
(4) The primary care physician agrees to pay the board the following as damages if the physician fails to complete the service obligation agreed to under division (B)(1) of this section:	21608 21609 21610 21611
(a) If the failure occurs during the first two years of the service obligation, three times the total amount the board has agreed to repay under division (B)(3) of this section;	21612 21613 21614

(b) If the failure occurs after the first two years of the 21615
service obligation, three times the amount the board is still 21616
obligated to repay under division (B)(3) of this section. 21617

(C) The contract may include any other terms agreed upon by 21618
the parties, including an assignment to the Ohio board of regents 21619
of the physician's duty to pay the principal and interest of a 21620
government or other educational loan taken by the physician for 21621
expenses described in section 3702.75 of the Revised Code. If the 21622
board assumes the physician's duty to pay a loan, the contract 21623
shall set forth the total amount of principal and interest to be 21624
paid, an amortization schedule, and the amount of each payment to 21625
be made under the schedule. 21626

Sec. 3705.23. (A)(1) Except as otherwise provided in this 21627
section, the director of health, the state registrar, or a local 21628
registrar, on receipt of a signed application and the fee 21629
specified in section 3705.24 of the Revised Code, shall issue a 21630
certified copy of a vital record, or of a part of a vital record, 21631
in the director's or registrar's custody to any applicant, unless 21632
the vital record has ceased to be a public record pursuant to 21633
section 3705.09, 3705.11, 3705.12, or 3705.15 of the Revised Code. 21634
The certified copy shall show the date the vital record was 21635
registered by the local registrar. 21636

(2) A certified copy of a vital record may be made by a 21637
mechanical, electronic, or other reproduction process. It shall be 21638
certified as a true copy by the director, state registrar, or 21639
local registrar who has custody of the record and shall include 21640
the date of issuance, the name of the issuing officer, the 21641
signature of the officer or an authorized facsimile of the 21642
signature, and the seal of the issuing office. 21643

(3) A certified copy of a vital record or of any part of a 21644
vital record, issued in accordance with this section, shall be 21645

considered for all purposes the same as the original and shall be 21646
prima-facie evidence of the facts stated in it in all courts and 21647
places. 21648

(4)(a) Information contained in the "information for medical 21649
and health use only" section of a birth record shall not be 21650
included as part of a certified copy of the birth record unless 21651
the information specifically is requested by the individual to 21652
whose birth the record attests, either of the individual's parents 21653
or the individual's guardian, a lineal descendant, or an official 21654
of the federal or state government or of a political subdivision 21655
of the state charged by law with detecting or prosecuting crime. 21656

(b) Except as provided in division (A)(4)(a) of this section, 21657
neither the office of vital statistics nor a local registrar shall 21658
disclose information contained in the "information for medical and 21659
health use only" section of a birth record unless a court, for 21660
good cause shown, orders disclosure of the information or the 21661
state registrar specifically authorizes release of the information 21662
for statistical or research purposes under conditions the state 21663
registrar, subject to the approval of the director of health, 21664
shall establish by rule. 21665

(B)(1) Unless the applicant specifically requests a certified 21666
copy, the director, the state registrar, or a local registrar, on 21667
receipt of a signed application for a birth record and the fee 21668
specified in section 3705.24 of the Revised Code, may issue a 21669
certification of birth, and the certification of birth shall 21670
contain at least the name, sex, date of birth, registration date, 21671
and place of birth of the person to whose birth the record attests 21672
and shall attest that the person's birth has been registered. A 21673
certification of birth shall be prima-facie evidence of the facts 21674
stated in it in all courts and places. 21675

(2) The director or the state registrar, on the receipt of a 21676
signed application for an heirloom certification of birth and the 21677

fee specified in section 3705.24 of the Revised Code, may issue an 21678
heirloom certification of birth. The director shall prescribe by 21679
rule guidelines for the form of an heirloom certification of 21680
birth, and the guidelines shall require the heirloom certification 21681
of birth to contain at least the name, sex, date of birth, 21682
registration date, and place of birth of the person to whose birth 21683
the record attests and to attest that the person's birth has been 21684
registered. An heirloom certification of birth shall be 21685
prima-facie evidence of the facts stated in it in all courts and 21686
places. 21687

(C) On evidence that a birth certificate was registered 21688
through misrepresentation or fraud, the state registrar may 21689
withhold the issuance of a certified copy of the birth record or a 21690
certification of birth until a court makes a determination that no 21691
misrepresentation or fraud occurred. 21692

~~(D) Except as provided in division (A)(4)(b) of this section,~~ 21693
~~the state registrar and a local registrar, on request, shall~~ 21694
~~provide uncertified copies of vital records in accordance with~~ 21695
~~section 149.43 of the Revised Code.~~ 21696

Sec. 3705.24. ~~(A) Except as otherwise provided in this~~ 21697
~~division or division (C) of this section, the fee for a certified~~ 21698
~~copy of a vital record or for a certification of birth shall be~~ 21699
~~seven dollars plus any fee required by section 3109.14 of the~~ 21700
~~Revised Code. Except as provided in section 3705.241 of the~~ 21701
~~Revised Code, the fee for a certified copy of a vital record or~~ 21702
~~for a certification of birth issued by the office of vital~~ 21703
~~statistics shall be an amount prescribed by the public health~~ 21704
~~council plus any fee required by section 3109.14 of the Revised~~ 21705
~~Code. The fee for a certified copy of a vital record or for a~~ 21706
~~certification of birth issued by a health district shall be an~~ 21707
~~amount prescribed in accordance with section 3709.09 of the~~ 21708

~~Revised Code plus any fee required by section 3109.14 of the~~ 21709
~~Revised Code. No certified copy of a vital record or certification~~ 21710
~~of birth shall be issued without payment of the fee unless~~ 21711
~~otherwise specified by statute.~~ 21712

~~For a special search of the files and records to determine a~~ 21713
~~date or place contained in a record on file, the office of vital~~ 21714
~~statistics shall charge a fee of three dollars for each hour or~~ 21715
~~fractional part of an hour required for the search.~~ 21716

(B)(1) The public health council shall, in accordance with 21717
section 111.15 of the Revised Code, adopt rules prescribing fees 21718
for the following services provided by the state office of vital 21719
statistics: 21720

(a) Except as provided in division (A)(4) of this section: 21721

(i) A certified copy of a vital record or a certification of 21722
birth; 21723

(ii) A search by the office of vital statistics of its files 21724
and records pursuant to a request for information, regardless of 21725
whether a copy of a record is provided; 21726

(iii) A copy of a record provided pursuant to a request; 21727

(b) Replacement of a birth certificate following an adoption, 21728
legitimation, paternity determination or acknowledgement, or court 21729
order; 21730

(c) Filing of a delayed registration of a vital record; 21731

(d) Amendment of a vital record that is requested later than 21732
one year after the filing date of the vital record; 21733

(e) Any other documents or services for which the public 21734
health council considers the charging of a fee appropriate. 21735

(2) Fees prescribed under division (A)(1)(a) of this section 21736
shall not be less than seven dollars. 21737

(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fee required by section 3109.14 of the Revised Code. 21738
21739
21740

(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code. 21741
21742
21743
21744

(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics or the board of health of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used solely toward the modernization and automation of the system of vital records in this state. A board of health shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter. 21745
21746
21747
21748
21749
21750
21751
21752
21753
21754
21755

(C) Except as otherwise provided in division ~~(G)~~(H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. ~~Money~~ Except as provided in division (B) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows: 21756
21757
21758
21759
21760
21761
21762
21763
21764
21765
21766
21767

(1) An overpayment of two dollars or less shall be retained 21768

by the department and deposited in the state treasury to the 21769
credit of the general operations fund created by section 3701.83 21770
of the Revised Code. 21771

(2) An overpayment in excess of two dollars shall be returned 21772
to the person who made the overpayment. 21773

~~(C)~~(D) If a local registrar is a salaried employee of a city 21774
or a general health district, any fees the local registrar 21775
receives pursuant to section 3705.23 of the Revised Code shall be 21776
paid into the general fund of the city or the health fund of the 21777
general health district. 21778

Each local registrar of vital statistics, or each health 21779
district where the local registrar is a salaried employee of the 21780
district, shall be entitled to a fee for each birth, fetal death, 21781
death, or military service certificate properly and completely 21782
made out and registered with the local registrar or district and 21783
correctly copied and forwarded to the office of vital statistics 21784
in accordance with the population of the primary registration 21785
district at the last federal census. The fee for each birth, fetal 21786
death, death, or military service certificate shall be: 21787

(1) In primary registration districts of over two hundred 21788
fifty thousand, twenty cents; 21789

(2) In primary registration districts of over one hundred 21790
twenty-five thousand and less than two hundred fifty thousand, 21791
sixty cents; 21792

(3) In primary registration districts of over fifty thousand 21793
and less than one hundred twenty-five thousand, eighty cents; 21794

(4) In primary registration districts of less than fifty 21795
thousand, one dollar. 21796

~~(D)~~(E) The director of health shall annually certify to the 21797
county treasurers of the several counties the number of birth, 21798

fetal death, death, and military service certificates registered 21799
from their respective counties with the names of the local 21800
registrars and the amounts due each registrar and health district 21801
at the rates fixed in this section. Such amounts shall be paid by 21802
the treasurer of the county in which the registration districts 21803
are located. No fees shall be charged or collected by registrars 21804
except as provided by this chapter and section 3109.14 of the 21805
Revised Code. 21806

~~(E)~~(F) A probate judge shall be paid a fee of fifteen cents 21807
for each certified abstract of marriage prepared and forwarded by 21808
the probate judge to the department of health pursuant to section 21809
3705.21 of the Revised Code. The fee shall be in addition to the 21810
fee paid for a marriage license and shall be paid by the 21811
applicants for the license. 21812

~~(F)~~(G) The clerk of a court of common pleas shall be paid a 21813
fee of one dollar for each certificate of divorce, dissolution, 21814
and annulment of marriage prepared and forwarded by the clerk to 21815
the department pursuant to section 3705.21 of the Revised Code. 21816
The fee for the certified abstract of divorce, dissolution, or 21817
annulment of marriage shall be added to the court costs allowed in 21818
these cases. 21819

~~(G)~~(H) The fee for an heirloom certification of birth issued 21820
pursuant to division (B)(2) of section 3705.23 of the Revised Code 21821
shall be an amount prescribed by rule by the director of health 21822
plus any fee required by section 3109.14 of the Revised Code. In 21823
setting the amount of the fee, the director shall establish a 21824
surcharge in addition to an amount necessary to offset the expense 21825
of processing heirloom certifications of birth. The fee prescribed 21826
by the director of health pursuant to this division shall be 21827
deposited into the state treasury to the credit of the heirloom 21828
certification of birth fund which is hereby created. Money 21829
credited to the fund shall be used by the office of vital 21830

statistics to offset the expense of processing heirloom 21831
certifications of birth. However, the money collected for the 21832
surcharge, subject to the approval of the controlling board, shall 21833
be used for the purposes specified by the family and children 21834
first council pursuant to section 121.37 of the Revised Code. 21835

Sec. 3709.09. (A) The board of health of a city or general 21836
health district may, by rule, establish a uniform system of fees 21837
to pay the costs of any services provided by the board. ~~Fees~~ 21838

The fee for issuance of a certified copy of a vital record or 21839
a certification of birth shall not be less than the fee prescribed 21840
for the same service under division (A)(1) of section 3705.24 of 21841
the Revised Code and shall include the fees required by division 21842
(B) of section 3705.24 and section 3109.14 of the Revised Code. 21843

Fees for services provided by the board for purposes 21844
specified in sections 3701.344, 3711.05, 3730.03, 3733.04, 21845
3733.25, and 3749.04 of the Revised Code shall be established in 21846
accordance with rules adopted under division (B) of this section. 21847
The district advisory council, in the case of a general health 21848
district, and the legislative authority of the city, in the case 21849
of a city health district, may disapprove any fee established by 21850
the board of health under this division, and any such fee, as 21851
disapproved, shall not be charged by the board of health. 21852

(B) The public health council shall adopt rules under section 21853
111.15 of the Revised Code that establish fee categories and 21854
uniform methodologies for use in calculating the costs of services 21855
provided for purposes specified in sections 3701.344, 3711.05, 21856
3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code. In 21857
adopting the rules, the public health council shall consider 21858
recommendations it receives from advisory boards established 21859
either by statute or the director of health for entities subject 21860
to the fees. 21861

(C) At least thirty days prior to establishing a fee for a 21862
service provided by the board for a purpose specified in section 21863
3701.344, 3711.05, 3730.03, 3733.04, 3733.25, or 3749.04 of the 21864
Revised Code, a board of health shall notify any entity that would 21865
be affected by the proposed fee of the amount of the proposed fee. 21866

Sec. 3710.05. (A) Except as otherwise provided in this 21867
chapter, no person shall engage in any asbestos hazard abatement 21868
activities in this state unless licensed or certified pursuant to 21869
this chapter. 21870

(B) To apply for licensure as an asbestos abatement 21871
contractor or certification as an asbestos hazard abatement 21872
specialist, an asbestos hazard evaluation specialist, an asbestos 21873
hazard abatement project designer, or an asbestos hazard abatement 21874
air-monitoring technician, a person shall do all of the following: 21875

(1) Submit a completed application to the department of 21876
health, on a form provided by the department; 21877

(2) Pay the requisite fee as provided in division (D) of this 21878
section; 21879

(3) Submit any other information the public health council by 21880
rule requires. 21881

(C) The application form for a business entity or public 21882
entity applying for an asbestos hazard abatement contractor's 21883
license shall include all of the following: 21884

(1) A description of the protective clothing and respirators 21885
that the public entity will use to comply with rules adopted by 21886
the public health council and that the business entity will use to 21887
comply with requirements of the United States occupational safety 21888
and health administration; 21889

(2) A description of procedures the business entity or public 21890
entity will use for the selection, utilization, handling, removal, 21891

and disposal of clothing to prevent contamination or	21892
recontamination of the environment and to protect the public	21893
health from the hazards associated with exposure to asbestos;	21894
(3) The name and address of each asbestos disposal site that	21895
the business entity or public entity might use during the year;	21896
(4) A description of the site decontamination procedures that	21897
the business entity or public entity will use;	21898
(5) A description of the asbestos hazard abatement procedures	21899
that the business entity or public entity will use;	21900
(6) A description of the procedures that the business entity	21901
or public entity will use for handling waste containing asbestos;	21902
(7) A description of the air-monitoring procedures that the	21903
business entity or public entity will use to prevent contamination	21904
or recontamination of the environment and to protect the public	21905
health from the hazards of exposure to asbestos;	21906
(8) A description of the final clean-up procedures that the	21907
business entity or public entity will use;	21908
(9) A list of all partners, owners, and officers of the	21909
business entity along with their social security numbers;	21910
(10) The federal tax identification number of the business	21911
entity or the public entity.	21912
(D) The fees to be charged to each public entity and business	21913
entity and their employees and agents for licensure,	21914
certification, approval, and renewal of licenses, certifications,	21915
and approvals granted under this chapter, subject to division	21916
(A)(4) of section 3710.02 of the Revised Code, are:	21917
(1) Five <u>Seven</u> hundred <u>fifty</u> dollars for asbestos hazard	21918
abatement contractors;	21919
(2) One <u>Two</u> hundred twenty-five dollars for asbestos hazard	21920
abatement project designers;	21921

(3) ~~Twenty-five~~ Fifty dollars for asbestos hazard abatement workers; 21922
21923

(4) ~~One Two~~ hundred ~~twenty-five~~ dollars for asbestos hazard abatement specialists; 21924
21925

(5) ~~One Two~~ hundred ~~twenty-five~~ dollars for asbestos hazard evaluation specialists; and 21926
21927

(6) ~~Seven~~ Nine hundred ~~fifty~~ dollars for approval or renewal of asbestos hazard training providers. 21928
21929

(E) Notwithstanding division (A) of this section, no business entity which engages in asbestos hazard abatement activities 21930
solely at its own place of business is required to be licensed as 21931
an asbestos hazard abatement contractor provided that the business 21932
entity is required to and does comply with all applicable 21933
standards of the United States environmental protection agency and 21934
the United States occupational safety and health administration 21935
and provided further that all persons employed by the business 21936
entity on the activity meet the requirements of this chapter. 21937
21938

Sec. 3711.021. For the purposes of this chapter, a maternity 21939
hospital or lying-in hospital includes a limited maternity unit, 21940
which is a unit in a hospital that contains no other maternity 21941
unit, in which care is provided during all or part of the 21942
maternity cycle and newborns receive care in a private room 21943
serving all antepartum, labor, delivery, recovery, postpartum, and 21944
nursery needs. 21945

The director of health may charge a maternity hospital or 21946
lying-in hospital seeking an initial or renewal license under this 21947
chapter a fee not exceeding the following: 21948

(A) ~~Three~~ Four thousand ~~eight-hundred-fifty~~ forty-two dollars 21949
for a hospital in which not less than two thousand births occurred 21950
the previous calendar year; 21951

(B) Three thousand ~~three~~ five hundred ~~fifty~~ seventeen dollars 21952
for a hospital in which not more than one thousand nine hundred 21953
ninety-nine and not less than one thousand births occurred the 21954
previous calendar year; 21955

(C) Two thousand ~~eight~~ nine hundred ~~fifty~~ ninety-two dollars 21956
for a hospital in which not more than nine hundred ninety-nine and 21957
not less than six hundred fifty births occurred the previous 21958
calendar year; 21959

(D) Two thousand ~~three~~ four hundred ~~fifty~~ sixty-seven dollars 21960
for a hospital in which not more than six hundred forty-nine and 21961
not less than four hundred fifty births occurred the previous 21962
calendar year; 21963

(E) One thousand ~~eight~~ nine hundred ~~fifty~~ forty-two dollars 21964
for a hospital in which not more than four hundred forty-nine 21965
births and not less than one hundred births occurred the previous 21966
calendar year; 21967

(F) One thousand ~~three~~ four hundred ~~fifty~~ seventeen dollars 21968
for a hospital in which not more than ninety-nine births occurred 21969
the previous calendar year. 21970

The director shall deposit all fees collected under this 21971
section into the general operations fund created under section 21972
3701.83 of the Revised Code. Money generated by the fees shall be 21973
used only for administration and enforcement of this chapter and 21974
rules adopted under it. 21975

Sec. 3721.02. (A) The director of health shall license homes 21976
and establish procedures to be followed in inspecting and 21977
licensing homes. The director may inspect a home at any time. Each 21978
home shall be inspected by the director at least once prior to the 21979
issuance of a license and at least once every fifteen months 21980
thereafter. The state fire marshal or a township, municipal, or 21981

other legally constituted fire department approved by the marshal 21982
shall also inspect a home prior to issuance of a license, at least 21983
once every fifteen months thereafter, and at any other time 21984
requested by the director. A home does not have to be inspected 21985
prior to issuance of a license by the director, state fire 21986
marshal, or a fire department if ownership of the home is assigned 21987
or transferred to a different person and the home was licensed 21988
under this chapter immediately prior to the assignment or 21989
transfer. The director may enter at any time, for the purposes of 21990
investigation, any institution, residence, facility, or other 21991
structure that has been reported to the director or that the 21992
director has reasonable cause to believe is operating as a nursing 21993
home, residential care facility, or home for the aging without a 21994
valid license required by section 3721.05 of the Revised Code or, 21995
in the case of a county home or district home, is operating 21996
despite the revocation of its residential care facility license. 21997
The director may delegate the director's authority and duties 21998
under this chapter to any division, bureau, agency, or official of 21999
the department of health. 22000

(B) A single facility may be licensed both as a nursing home 22001
pursuant to this chapter and as an adult care facility pursuant to 22002
Chapter 3722. of the Revised Code if the director determines that 22003
the part or unit to be licensed as a nursing home can be 22004
maintained separate and discrete from the part or unit to be 22005
licensed as an adult care facility. 22006

(C) In determining the number of residents in a home for the 22007
purpose of licensing, the director shall consider all the 22008
individuals for whom the home provides accommodations as one group 22009
unless one of the following is the case: 22010

(1) The home is a home for the aging, in which case all the 22011
individuals in the part or unit licensed as a nursing home shall 22012
be considered as one group, and all the individuals in the part or 22013

unit licensed as a rest home shall be considered as another group. 22014

(2) The home is both a nursing home and an adult care 22015
facility. In that case, all the individuals in the part or unit 22016
licensed as a nursing home shall be considered as one group, and 22017
all the individuals in the part or unit licensed as an adult care 22018
facility shall be considered as another group. 22019

(3) The home maintains, in addition to a nursing home or 22020
residential care facility, a separate and discrete part or unit 22021
that provides accommodations to individuals who do not require or 22022
receive skilled nursing care and do not receive personal care 22023
services from the home, in which case the individuals in the 22024
separate and discrete part or unit shall not be considered in 22025
determining the number of residents in the home if the separate 22026
and discrete part or unit is in compliance with the Ohio basic 22027
building code established by the board of building standards under 22028
Chapters 3781. and 3791. of the Revised Code and the home permits 22029
the director, on request, to inspect the separate and discrete 22030
part or unit and speak with the individuals residing there, if 22031
they consent, to determine whether the separate and discrete part 22032
or unit meets the requirements of this division. 22033

(D) The director of health shall charge an application fee 22034
and an annual renewal licensing and inspection fee of one hundred 22035
five dollars for each fifty persons or part thereof of a home's 22036
licensed capacity. All fees collected by the director for the 22037
issuance or renewal of licenses shall be deposited into the state 22038
treasury to the credit of the general operations fund created in 22039
section 3701.83 of the Revised Code for use only in administering 22040
and enforcing this chapter and rules adopted under it. 22041

(E)(1) Except as otherwise provided in this section, the 22042
results of an inspection or investigation of a home that is 22043
conducted under this section, including any statement of 22044
deficiencies and all findings and deficiencies cited in the 22045

statement on the basis of the inspection or investigation, shall 22046
be used solely to determine the home's compliance with this 22047
chapter or another chapter of the Revised Code in any action or 22048
proceeding other than an action commenced under division (I) of 22049
section 3721.17 of the Revised Code. Those results of an 22050
inspection or investigation, that statement of deficiencies, and 22051
the findings and deficiencies cited in that statement shall not be 22052
used in any court or in any action or proceeding that is pending 22053
in any court and are not admissible in evidence in any action or 22054
proceeding unless that action or proceeding is an appeal of an 22055
action by the department of health under this chapter or is an 22056
action by any department or agency of the state to enforce this 22057
chapter or another chapter of the Revised Code. 22058

(2) Nothing in division (E)(1) of this section prohibits the 22059
results of an inspection or investigation conducted under this 22060
section from being used in a criminal investigation or 22061
prosecution. 22062

Sec. 3721.19. (A) As used in this section: 22063

(1) "Home" and "residential care facility" have the same 22064
meanings as in section 3721.01 of the Revised Code; 22065

(2) "Sponsor" and "residents' rights advocate" have the same 22066
meanings as in section 3721.10 of the Revised Code. 22067

A home licensed under this chapter that is not a party to a 22068
provider agreement, as defined in section 5111.20 of the Revised 22069
Code, shall provide each prospective resident, before admission, 22070
with the following information, orally and in a separate written 22071
notice on which is printed in a conspicuous manner: "This home is 22072
not a participant in the medical assistance program administered 22073
by the Ohio department of job and family services. Consequently, 22074
you may be discharged from this home if you are unable to pay for 22075
the services provided by this home." 22076

If the prospective resident has a sponsor whose identity is 22077
made known to the home, the home shall also inform the sponsor, 22078
before admission of the resident, of the home's status relative to 22079
the medical assistance program. Written acknowledgement of the 22080
receipt of the information shall be provided by the resident and, 22081
if the prospective resident has a sponsor who has been identified 22082
to the home, by the sponsor. The written acknowledgement shall be 22083
made part of the resident's record by the home. 22084

No home shall terminate its status as a provider under the 22085
medical assistance program unless it has complied with section 22086
5111.24 of the Revised Code and, at least ninety days prior to 22087
such termination, provided written notice to the ~~department of job~~ 22088
~~and family services~~ and residents of the home and their sponsors 22089
of such action. This requirement shall not apply in cases where 22090
the department of job and family services terminates a home's 22091
provider agreement or provider status. 22092

(B) A home licensed under this chapter as a residential care 22093
facility shall provide notice to each prospective resident or the 22094
individual's sponsor of the services offered by the facility and 22095
the types of skilled nursing care that the facility may provide. A 22096
residential care facility that, pursuant to section 3721.012 of 22097
the Revised Code, has a policy of entering into risk agreements 22098
with residents or their sponsors shall provide each prospective 22099
resident or the individual's sponsor a written explanation of the 22100
policy and the provisions that may be contained in a risk 22101
agreement. At the time the information is provided, the facility 22102
shall obtain a statement signed by the individual receiving the 22103
information acknowledging that the individual received the 22104
information. The facility shall maintain on file the individual's 22105
signed statement. 22106

(C) A resident has a cause of action against a home for 22107
breach of any duty imposed by this section. The action may be 22108

commenced by the resident, or on the resident's behalf by the 22109
resident's sponsor or a residents' rights advocate, by the filing 22110
of a civil action in the court of common pleas of the county in 22111
which the home is located, or in the court of common pleas of 22112
Franklin county. 22113

If the court finds that a breach of any duty imposed by this 22114
section has occurred, the court shall enjoin the home from 22115
discharging the resident from the home until arrangements 22116
satisfactory to the court are made for the orderly transfer of the 22117
resident to another mode of health care including, but not limited 22118
to, another home, and may award the resident and a person or 22119
public agency that brings an action on behalf of a resident 22120
reasonable attorney's fees. If a home discharges a resident to 22121
whom or to whose sponsor information concerning its status 22122
relative to the medical assistance program was not provided as 22123
required under this section, the court shall grant any appropriate 22124
relief including, but not limited to, actual damages, reasonable 22125
attorney's fees, and costs. 22126

Sec. 3721.56. (A) Thirty and three-tenths per cent of all 22127
payments and penalties paid by nursing homes and hospitals under 22128
sections 3721.53 and 3721.54 of the Revised Code for fiscal year 22129
2002, twenty-three and twenty-six-hundredths per cent of such 22130
payments and penalties paid for fiscal years 2003 through 2005, 22131
and all such payments and penalties paid for subsequent fiscal 22132
years, shall be deposited into the "home and community-based 22133
services for the aged fund," which is hereby created in the state 22134
treasury. The departments of job and family services and aging 22135
shall use the moneys in the fund to fund the following in 22136
accordance with rules adopted under section 3721.58 of the Revised 22137
Code: 22138

(1) The ~~medical assistance~~ medicaid program established under 22139

Chapter 5111. of the Revised Code;	22140
(2) The PASSPORT program established under section 173.40 of the Revised Code;	22141 22142
(3) The residential state supplement program established under section 173.35 of the Revised Code.	22143 22144
(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 year 2002, 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 to make payments to nursing facilities under the medicaid program.	22145 22146 22147 22148 22149 22150 22151 22152 22153 22154 22155
<u>Sec. 3721.561. Any money remaining in the nursing facility stabilization fund created under section 3721.56 of the Revised Code after payments specified in division (B) of that section are made for fiscal years 2002 through 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 section 3721.56 of the Revised Code.</u>	22156 22157 22158 22159 22160 22161 22162 22163
Sec. 3722.15. (A) The following may enter an adult care facility at any time:	22164 22165
(1) Employees designated by the director of health;	22166
(2) Employees designated by the director of aging;	22167
(3) Employees designated by the attorney general;	22168

(4) Employees designated ~~by a county department of job and family services~~ to implement sections 5101.60 to ~~5101.71~~ 5101.70 of the Revised Code on behalf of a county department of job and family services or designated agency, as defined in section 5101.60 of the Revised Code; 22169
22170
22171
22172
22173

(5) Persons employed pursuant to division (M) of section 173.01 of the Revised Code in the long-term care facilities ombudsperson program; 22174
22175
22176

(6) Employees of the department of mental health designated by the director of mental health; 22177
22178

(7) Employees of a mental health agency, if the agency has a client residing in the facility; 22179
22180

(8) Employees of a board of alcohol, drug addiction, and mental health services, when authorized by section 340.05 of the Revised Code or if an individual receiving mental health services provided by the board pursuant to division (A)(8)(b) of section 340.03 of the Revised Code or a mental health agency under contract with the board resides in the facility. 22181
22182
22183
22184
22185
22186

These employees shall be afforded access to all records of the facility, including records pertaining to residents, and may copy the records. Neither these employees nor the director of health shall release, without consent, any information obtained from the records of an adult care facility that reasonably would tend to identify a specific resident of the facility, except as ordered by a court of competent jurisdiction. 22187
22188
22189
22190
22191
22192
22193

(B) The following persons may enter any adult care facility during reasonable hours: 22194
22195

(1) A resident's sponsor; 22196

(2) Residents' rights advocates; 22197

(3) A resident's attorney; 22198

(4) A minister, priest, rabbi, or other person ministering to a resident's religious needs;	22199 22200
(5) A physician or other person providing health care services to a resident;	22201 22202
(6) Employees authorized by county departments of job and family services and local boards of health or health departments to enter adult care facilities;	22203 22204 22205
(7) A prospective resident and prospective resident's sponsor.	22206 22207
(C) The manager of an adult care facility may require a person seeking to enter the facility to present identification sufficient to identify the person as an authorized person under this section.	22208 22209 22210 22211
Sec. 3722.16. (A) No person shall:	22212
(1) Operate an adult care facility unless the facility is validly licensed by the director of health under section 3722.04 of the Revised Code;	22213 22214 22215
(2) Admit to an adult care facility more residents than the number authorized in the facility's license;	22216 22217
(3) Admit a resident to an adult care facility after the director has issued an order pursuant to section 3722.07 of the Revised Code suspending admissions to the facility. Violation of division (A)(3) of this section is cause for revocation of the facility's license.	22218 22219 22220 22221 22222
(4) Interfere with any authorized inspection of an adult care facility conducted pursuant to section 3722.02 or 3722.04 of the Revised Code;	22223 22224 22225
(5) Violate any of the provisions of this chapter or any of the rules adopted pursuant to it.	22226 22227

(B) No adult care facility shall provide, or admit or retain any resident in need of, skilled nursing care unless all of the following are the case:

(1) The care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period by one or more of the following:

(a) A home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended:

(b) A hospice care program licensed under Chapter 3712. of the Revised Code;

(c) A nursing home licensed under Chapter 3721. of the Revised Code and owned and operated by the same person and located on the same site as the adult care facility;

(d) A mental health agency or, pursuant to division (A)(8)(b) of section 340.03 of the Revised Code, a board of alcohol, drug addiction, and mental health services.

(2) The staff of the home health agency, hospice care program, nursing home, mental health agency, or board of alcohol, drug addiction, and mental health services does not train facility staff to provide the skilled nursing care;

(3) The individual to whom the skilled nursing care is provided is suffering from a short-term illness;

(4) If the skilled nursing care is to be provided by the nursing staff of a nursing home, all of the following are the case:

(a) The adult care facility evaluates the individual receiving the skilled nursing care at least once every seven days to determine whether the individual should be transferred to a nursing home;

(b) The adult care facility meets at all times staffing requirements established by rules adopted under section 3722.10 of the Revised Code; 22258
22259
22260

(c) The nursing home does not include the cost of providing skilled nursing care to the adult care facility residents in a cost report filed under section ~~5111.26~~ 5111.23 of the Revised Code; 22261
22262
22263
22264

(d) The nursing home meets at all times the nursing home licensure staffing ratios established by rules adopted under section 3721.04 of the Revised Code; 22265
22266
22267

(e) The nursing home staff providing skilled nursing care to adult care facility residents are registered nurses or licensed practical nurses licensed under Chapter 4723. of the Revised Code and meet the personnel qualifications for nursing home staff established by rules adopted under section 3721.04 of the Revised Code; 22268
22269
22270
22271
22272
22273

(f) The skilled nursing care is provided in accordance with rules established for nursing homes under section 3721.04 of the Revised Code; 22274
22275
22276

(g) The nursing home meets the skilled nursing care needs of the adult care facility residents; 22277
22278

(h) Using the nursing home's nursing staff does not prevent the nursing home or adult care facility from meeting the needs of the nursing home and adult care facility residents in a quality and timely manner. 22279
22280
22281
22282

Notwithstanding section 3721.01 of the Revised Code, an adult care facility in which residents receive skilled nursing care as described in division (B) of this section is not a nursing home. No adult care facility shall provide skilled nursing care. 22283
22284
22285
22286

(C) A home health agency or hospice care program that 22287

provides skilled nursing care pursuant to division (B) of this 22288
section may not be associated with the adult care facility unless 22289
the facility is part of a home for the aged as defined in section 22290
5701.13 of the Revised Code or the adult care facility is owned 22291
and operated by the same person and located on the same site as a 22292
nursing home licensed under Chapter 3721. of the Revised Code that 22293
is associated with the home health agency or hospice care program. 22294
In addition, the following requirements shall be met: 22295

(1) The adult care facility shall evaluate the individual 22296
receiving the skilled nursing care not less than once every seven 22297
days to determine whether the individual should be transferred to 22298
a nursing home; 22299

(2) If the costs of providing the skilled nursing care are 22300
included in a cost report filed pursuant to section ~~5111.26~~ 22301
5111.23 of the Revised Code by the nursing home that is part of 22302
the same home for the aged, the home health agency or hospice care 22303
program shall not seek reimbursement for the care under the 22304
medical assistance program established under Chapter 5111. of the 22305
Revised Code. 22306

(D)(1) No person knowingly shall place or recommend placement 22307
of any person in an adult care facility that is operating without 22308
a license. 22309

(2) No employee of a unit of local or state government, board 22310
of alcohol, drug addiction, and mental health services, mental 22311
health agency, or PASSPORT administrative agency shall place or 22312
recommend placement of any person in an adult care facility if the 22313
employee knows that the facility cannot meet the needs of the 22314
potential resident. 22315

(3) No person who has reason to believe that an adult care 22316
facility is operating without a license shall fail to report this 22317
information to the director of health. 22318

(E) In accordance with Chapter 119. of the Revised Code, the public health council shall adopt rules that define a short-term illness for purposes of division (B)(3) of this section and specify, consistent with rules pertaining to home health care adopted by the director of job and family services under the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, what constitutes a part-time, intermittent basis for purposes of division (B)(1) of this section.

Sec. 3727.17. Each hospital shall provide a staff person to do all of the following:

(A) Meet with each unmarried mother who gave birth in or en route to the hospital within twenty-four hours after the birth or before the mother is released from the hospital;

(B) Attempt to meet with the father of the unmarried mother's child if possible;

(C) Explain to the unmarried mother and the father, if the father is present, the benefit to the child of establishing a parent and child relationship between the father and the child and the various proper procedures for establishing a parent and child relationship;

(D) Present to the unmarried mother and, if possible, the father, the pamphlet or statement regarding the rights and responsibilities of a natural parent prepared by the department of job and family services pursuant to section 3111.32 of the Revised Code;

(E) Provide the unmarried mother, and if possible the father, all forms and statements necessary to voluntarily establish a parent and child relationship, including the acknowledgment of

paternity form prepared by the department of job and family 22349
services pursuant to section 3111.31 of the Revised Code; 22350

(F) Explain to the mother and father the availability of 22351
immediate genetic testing at the hospital to establish the parent 22352
and child relationship and that the test is at no cost to the 22353
mother or father; 22354

(G) Upon both the mother's and father's request, help the 22355
mother and father complete any specific form or statement 22356
necessary to establish a parent and child relationship; 22357

~~(G)~~(H) Present to an unmarried mother who is not a recipient 22358
of medicaid or a participant in Ohio works first an application 22359
for Title IV-D services; 22360

~~(H)~~(I) Mail the voluntary acknowledgment of paternity, no 22361
later than ten days after it is completed, to the office of child 22362
support in the department of job and family services. 22363

Each hospital shall provide a notary public to notarize an 22364
acknowledgment of paternity signed by the mother and father. If a 22365
hospital knows or determines that a man is presumed under section 22366
3111.03 of the Revised Code to be the father of the child 22367
described in this section and that the presumed father is not the 22368
man who signed or is attempting to sign an acknowledgment with 22369
respect to the child, the hospital shall take no further action 22370
with regard to the acknowledgment and shall not mail the 22371
acknowledgment pursuant to this section. 22372

A hospital may contract with a person or government entity to 22373
fulfill its responsibilities under this section and sections 22374
3111.71 to 3111.74 of the Revised Code. Services provided by a 22375
hospital under this section or pursuant to a contract under 22376
sections 3111.71 and 3111.77 of the Revised Code do not constitute 22377
the practice of law. A hospital shall not be subject to criminal 22378
or civil liability for any damage or injury alleged to result from 22379

services provided pursuant to this section or sections 3111.71 to 22380
3111.74 of the Revised Code unless the hospital acted with 22381
malicious purpose, in bad faith, or in a wanton or reckless 22382
manner. 22383

Sec. 3733.43. (A) Except as otherwise provided in this 22384
division, prior to the fifteenth day of April in each year, every 22385
person who intends to operate an agricultural labor camp shall 22386
make application to the licensor for a license to operate such 22387
camp, effective for the calendar year in which it is issued. The 22388
licensor may accept an application on or after the fifteenth day 22389
of April. The license fees specified in this division shall be 22390
submitted to the licensor with the application for a license. No 22391
agricultural labor camp shall be operated in this state without a 22392
license. Any person operating an agricultural labor camp without a 22393
current and valid agricultural labor camp license is not excepted 22394
from compliance with sections 3733.41 to 3733.49 of the Revised 22395
Code by holding a valid and current hotel license. Each person 22396
proposing to open an agricultural labor camp shall submit with the 22397
application for a license any plans required by any rule adopted 22398
under section 3733.42 of the Revised Code. The annual license fee 22399
is ~~twenty~~ seventy-five dollars, unless the application for a 22400
license is made on or after the fifteenth day of April, in which 22401
case the annual license fee is ~~forty~~ one hundred dollars. An 22402
additional fee of ~~three~~ ten dollars per housing unit per year 22403
shall be assessed to defray the costs of enforcing sections 22404
3733.41 to 3733.49 of the Revised Code, unless the application for 22405
a license is made on or after the fifteenth day of April, in which 22406
case an additional fee of ~~six~~ fifteen dollars per housing unit 22407
shall be assessed. All fees collected under this division shall be 22408
deposited in the state treasury to the credit of the general 22409
operations fund created in section 3701.83 of the Revised Code and 22410
shall be used for the administration and enforcement of sections 22411

3733.41 to 3733.49 of the Revised Code and rules adopted 22412
thereunder. 22413

(B) Any license under this section may be denied, suspended, 22414
or revoked by the licensor for violation of sections 3733.41 to 22415
3733.49 of the Revised Code or the rules adopted thereunder. 22416
Unless there is an immediate serious public health hazard, no 22417
denial, suspension, or revocation of a license shall be made 22418
effective until the person operating the agricultural labor camp 22419
has been given notice in writing of the specific violations and a 22420
reasonable time to make corrections. When the licensor determines 22421
that an immediate serious public health hazard exists, ~~he~~ the 22422
licensor shall issue an order denying or suspending the license 22423
without a prior hearing. 22424

(C) All proceedings under this section are subject to Chapter 22425
119. of the Revised Code except as provided in section 3733.431 of 22426
the Revised Code. 22427

(D) Every occupant of an agricultural labor camp shall keep 22428
that part of the dwelling unit, and premises thereof, that ~~he~~ the 22429
occupant occupies and controls in a clean and sanitary condition. 22430

Sec. 3733.45. (A) The licensor shall inspect all agricultural 22431
labor camps and shall require compliance with sections 3733.41 to 22432
3733.49 of the Revised Code and the rules adopted thereunder prior 22433
to the issuance of a license. Upon receipt of a complaint from the 22434
migrant agricultural ~~ombudsman~~ ombudsperson or upon the basis of a 22435
licensor's own information that an agricultural labor camp is 22436
operating without a license, the licensor shall inspect the camp. 22437
If the camp is operating without a license, the licensor shall 22438
require the camp to comply with sections 3733.41 to 3733.49 of the 22439
Revised Code and the rules adopted under those sections. No 22440
license shall be issued unless results of water supply tests 22441
indicate that the water supply meets required standards or if any 22442

violations exist concerning sanitation, drainage, or habitability 22443
of housing units. 22444

(B) The licensor shall, upon issuance of each license, 22445
distribute posters containing the toll-free telephone number of 22446
the migrant agricultural ~~ombudsman~~ ombudsperson established in 22447
section 3733.49 of the Revised Code and information in English and 22448
Spanish describing the purpose of the ~~ombudsman's~~ ombudsperson's 22449
office, as provided in that section. The licensor shall provide at 22450
least two posters to the licensee, one for ~~his~~ the licensee's 22451
personal use and at least one that shall be posted in a 22452
conspicuous place within the camp. 22453

(C) The licensor may, upon proper identification to the 22454
operator or ~~his~~ the operator's agent, enter on any property or 22455
into any structure at any reasonable time for the purpose of 22456
making inspections required by this section. 22457

The licensor shall make at least one inspection prior to 22458
~~licensing, and at least two inspections during occupancy of the~~ 22459
~~camps, at least one of which shall be an unannounced evening~~ 22460
~~inspection conducted after five p.m. The licensor shall determine~~ 22461
~~and record housing unit occupancy during each evening inspection.~~ 22462
The licensor shall make such other inspections as ~~he~~ the licensor 22463
considers necessary to enforce sections 3733.41 to 3733.49 of the 22464
Revised Code adequately. 22465

(D) Any plans submitted to the licensor shall be in 22466
compliance with rules adopted pursuant to section 3733.42 of the 22467
Revised Code and shall be approved or disapproved within thirty 22468
days after they are filed. 22469

(E) ~~All designees of the licensor who conduct inspections in~~ 22470
~~the evening in accordance with this section shall speak both~~ 22471
~~English and Spanish fluently. At least one member of the permanent~~ 22472
~~staff assigned to conduct inspections in accordance with this~~ 22473

~~section shall speak both English and Spanish fluently.~~ 22474

(F) The licensor shall issue an annual report that shall 22475
accurately reflect the results of that year's inspections, 22476
including, but not limited to, numbers of ~~pre and post occupancy~~ 22477
inspections, number of violations found, and action taken in 22478
regard to violations. The report shall also include an assessment 22479
of any problems found in that year and proposed solutions for 22480
them. 22481

Sec. 3734.02. (A) The director of environmental protection, 22482
in accordance with Chapter 119. of the Revised Code, shall adopt 22483
and may amend, suspend, or rescind rules having uniform 22484
application throughout the state governing solid waste facilities 22485
and the inspections of and issuance of permits and licenses for 22486
all solid waste facilities in order to ensure that the facilities 22487
will be located, maintained, and operated, and will undergo 22488
closure and post-closure care, in a sanitary manner so as not to 22489
create a nuisance, cause or contribute to water pollution, create 22490
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 22491
257.3-8, as amended. The rules may include, without limitation, 22492
financial assurance requirements for closure and post-closure care 22493
and corrective action and requirements for taking corrective 22494
action in the event of the surface or subsurface discharge or 22495
migration of explosive gases or leachate from a solid waste 22496
facility, or of ground water contamination resulting from the 22497
transfer or disposal of solid wastes at a facility, beyond the 22498
boundaries of any area within a facility that is operating or is 22499
undergoing closure or post-closure care where solid wastes were 22500
disposed of or are being disposed of. The rules shall not concern 22501
or relate to personnel policies, salaries, wages, fringe benefits, 22502
or other conditions of employment of employees of persons owning 22503
or operating solid waste facilities. The director, in accordance 22504
with Chapter 119. of the Revised Code, shall adopt and may amend, 22505

suspend, or rescind rules governing the issuance, modification, 22506
revocation, suspension, or denial of variances from the director's 22507
solid waste rules, including, without limitation, rules adopted 22508
under this chapter governing the management of scrap tires. 22509

Variances shall be issued, modified, revoked, suspended, or 22510
rescinded in accordance with this division, rules adopted under 22511
it, and Chapter 3745. of the Revised Code. The director may order 22512
the person to whom a variance is issued to take such action within 22513
such time as the director may determine to be appropriate and 22514
reasonable to prevent the creation of a nuisance or a hazard to 22515
the public health or safety or the environment. Applications for 22516
variances shall contain such detail plans, specifications, and 22517
information regarding objectives, procedures, controls, and other 22518
pertinent data as the director may require. The director shall 22519
grant a variance only if the applicant demonstrates to the 22520
director's satisfaction that construction and operation of the 22521
solid waste facility in the manner allowed by the variance and any 22522
terms or conditions imposed as part of the variance will not 22523
create a nuisance or a hazard to the public health or safety or 22524
the environment. In granting any variance, the director shall 22525
state the specific provision or provisions whose terms are to be 22526
varied and also shall state specific terms or conditions imposed 22527
upon the applicant in place of the provision or provisions. The 22528
director may hold a public hearing on an application for a 22529
variance or renewal of a variance at a location in the county 22530
where the operations that are the subject of the application for 22531
the variance are conducted. The director shall give not less than 22532
twenty days' notice of the hearing to the applicant by certified 22533
mail and shall publish at least one notice of the hearing in a 22534
newspaper with general circulation in the county where the hearing 22535
is to be held. The director shall make available for public 22536
inspection at the principal office of the environmental protection 22537
agency a current list of pending applications for variances and a 22538

current schedule of pending variance hearings. The director shall 22539
make a complete stenographic record of testimony and other 22540
evidence submitted at the hearing. Within ten days after the 22541
hearing, the director shall make a written determination to issue, 22542
renew, or deny the variance and shall enter the determination and 22543
the basis for it into the record of the hearing. The director 22544
shall issue, renew, or deny an application for a variance or 22545
renewal of a variance within six months of the date upon which the 22546
director receives a complete application with all pertinent 22547
information and data required. No variance shall be issued, 22548
revoked, modified, or denied until the director has considered the 22549
relative interests of the applicant, other persons and property 22550
affected by the variance, and the general public. Any variance 22551
granted under this division shall be for a period specified by the 22552
director and may be renewed from time to time on such terms and 22553
for such periods as the director determines to be appropriate. No 22554
application shall be denied and no variance shall be revoked or 22555
modified without a written order stating the findings upon which 22556
the denial, revocation, or modification is based. A copy of the 22557
order shall be sent to the applicant or variance holder by 22558
certified mail. 22559

(B) The director shall prescribe and furnish the forms 22560
necessary to administer and enforce this chapter. The director may 22561
cooperate with and enter into agreements with other state, local, 22562
or federal agencies to carry out the purposes of this chapter. The 22563
director may exercise all incidental powers necessary to carry out 22564
the purposes of this chapter. 22565

The director may use moneys in the infectious waste 22566
management fund created in section 3734.021 of the Revised Code 22567
exclusively for administering and enforcing the provisions of this 22568
chapter governing the management of infectious wastes. Of each 22569
registration and renewal fee collected under rules adopted under 22570

division (A)(2)(a) of section 3734.021 or under section 3734.022 22571
of the Revised Code, the director, within forty-five days of its 22572
receipt, shall remit from the fund one-half of the fee received to 22573
the board of health of the health district in which the registered 22574
premises is located, or, in the instance of an infectious wastes 22575
transporter, to the board of health of the health district in 22576
which the transporter's principal place of business is located. 22577
However, if the board of health having jurisdiction over a 22578
registrant's premises or principal place of business is not on the 22579
approved list under section 3734.08 of the Revised Code, the 22580
director shall not make that payment to the board of health. 22581

(C) Except as provided in this division and divisions (N)(2) 22582
and (3) of this section, no person shall establish a new solid 22583
waste facility or infectious waste treatment facility, or modify 22584
an existing solid waste facility or infectious waste treatment 22585
facility, without submitting an application for a permit with 22586
accompanying detail plans, specifications, and information 22587
regarding the facility and method of operation and receiving a 22588
permit issued by the director, except that no permit shall be 22589
required under this division to install or operate a solid waste 22590
facility for sewage sludge treatment or disposal when the 22591
treatment or disposal is authorized by a current permit issued 22592
under Chapter 3704. or 6111. of the Revised Code. 22593

No person shall continue to operate a solid waste facility 22594
for which the director has denied a permit for which an 22595
application was required under division (A)(3) of section 3734.05 22596
of the Revised Code, or for which the director has disapproved 22597
plans and specifications required to be filed by an order issued 22598
under division (A)(5) of that section, after the date prescribed 22599
for commencement of closure of the facility in the order issued 22600
under division (A)(6) of section 3734.05 of the Revised Code 22601
denying the permit application or approval. 22602

On and after the effective date of the rules adopted under 22603
division (A) of this section and division (D) of section 3734.12 22604
of the Revised Code governing solid waste transfer facilities, no 22605
person shall establish a new, or modify an existing, solid waste 22606
transfer facility without first submitting an application for a 22607
permit with accompanying engineering detail plans, specifications, 22608
and information regarding the facility and its method of operation 22609
to the director and receiving a permit issued by the director. 22610

No person shall establish a new compost facility or continue 22611
to operate an existing compost facility that accepts exclusively 22612
source separated yard wastes without submitting a completed 22613
registration for the facility to the director in accordance with 22614
rules adopted under divisions (A) and (N)(3) of this section. 22615

This division does not apply to an infectious waste treatment 22616
facility that meets any of the following conditions: 22617

(1) Is owned or operated by the generator of the wastes and 22618
exclusively treats, by methods, techniques, and practices 22619
established by rules adopted under division (C)(1) or (3) of 22620
section 3734.021 of the Revised Code, wastes that are generated at 22621
any premises owned or operated by that generator regardless of 22622
whether the wastes are generated on the premises where the 22623
generator's treatment facility is located or, if the generator is 22624
a hospital as defined in section 3727.01 of the Revised Code, 22625
infectious wastes that are described in division (A)(1)(g), (h), 22626
or (i) of section 3734.021 of the Revised Code; 22627

(2) Holds a license or renewal of a license to operate a 22628
crematory facility issued under Chapter 4717. and a permit issued 22629
under Chapter 3704. of the Revised Code; 22630

(3) Treats or disposes of dead animals or parts thereof, or 22631
the blood of animals, and is subject to any of the following: 22632

(a) Inspection under the "Federal Meat Inspection Act," 81 22633

Stat. 584 (1967), 21 U.S.C.A. 603, as amended;	22634
(b) Chapter 918. of the Revised Code;	22635
(c) Chapter 953. of the Revised Code.	22636
(D) Neither this chapter nor any rules adopted under it apply	22637
to single-family residential premises; to infectious wastes	22638
generated by individuals for purposes of their own care or	22639
treatment that are disposed of with solid wastes from the	22640
individual's residence; to the temporary storage of solid wastes,	22641
other than scrap tires, prior to their collection for disposal; to	22642
the storage of one hundred or fewer scrap tires unless they are	22643
stored in such a manner that, in the judgment of the director or	22644
the board of health of the health district in which the scrap	22645
tires are stored, the storage causes a nuisance, a hazard to	22646
public health or safety, or a fire hazard; or to the collection of	22647
solid wastes, other than scrap tires, by a political subdivision	22648
or a person holding a franchise or license from a political	22649
subdivision of the state; to composting, as defined in section	22650
1511.01 of the Revised Code, conducted in accordance with section	22651
1511.022 of the Revised Code; or to any person who is licensed to	22652
transport raw rendering material to a compost facility pursuant to	22653
section 953.23 of the Revised Code.	22654
(E)(1) As used in this division and section 3734.18 of the	22655
Revised Code:	22656
(a) <u>"On-site facility"</u> means a facility that stores, treats,	22657
or disposes of hazardous waste that is generated on the premises	22658
of the facility.	22659
(b) <u>"Off-site facility"</u> means a facility that stores, treats,	22660
or disposes of hazardous waste that is generated off the premises	22661
of the facility and includes such a facility that is also an	22662
on-site facility.	22663
(c) <u>"Satellite facility"</u> means any of the following:	22664

(i) An on-site facility that also receives hazardous waste 22665
from other premises owned by the same person who generates the 22666
waste on the facility premises; 22667

(ii) An off-site facility operated so that all of the 22668
hazardous waste it receives is generated on one or more premises 22669
owned by the person who owns the facility; 22670

(iii) An on-site facility that also receives hazardous waste 22671
that is transported uninterruptedly and directly to the facility 22672
through a pipeline from a generator who is not the owner of the 22673
facility. 22674

(2) Except as provided in division (E)(3) of this section, no 22675
person shall establish or operate a hazardous waste facility, or 22676
use a solid waste facility for the storage, treatment, or disposal 22677
of any hazardous waste, without a hazardous waste facility 22678
installation and operation permit ~~from the hazardous waste~~ 22679
~~facility board~~ issued in accordance with section 3734.05 of the 22680
Revised Code and subject to the payment of an application fee not 22681
to exceed one thousand five hundred dollars, payable upon 22682
application for a hazardous waste facility installation and 22683
operation permit and upon application for a renewal permit issued 22684
under division (H) of section 3734.05 of the Revised Code, to be 22685
credited to the hazardous waste facility management fund created 22686
in section 3734.18 of the Revised Code. The term of a hazardous 22687
waste facility installation and operation permit shall not exceed 22688
five years. 22689

In addition to the application fee, there is hereby levied an 22690
annual permit fee to be paid by the permit holder upon the 22691
anniversaries of the date of issuance of the hazardous waste 22692
facility installation and operation permit and of any subsequent 22693
renewal permits and to be credited to the hazardous waste facility 22694
management fund. Annual permit fees totaling forty thousand 22695

dollars or more for any one facility may be paid on a quarterly			22696
basis with the first quarterly payment each year being due on the			22697
anniversary of the date of issuance of the hazardous waste			22698
facility installation and operation permit and of any subsequent			22699
renewal permits. The annual permit fee shall be determined for			22700
each permit holder by the director in accordance with the			22701
following schedule:			22702
TYPE OF BASIC			22703
MANAGEMENT UNIT	TYPE OF FACILITY	FEE	22704
Storage facility using:			22705
Containers	On-site, off-site, and		22706
	satellite	\$ 500	22707
Tanks	On-site, off-site, and		22708
	satellite	500	22709
Waste pile	On-site, off-site, and		22710
	satellite	3,000	22711
Surface impoundment	On-site and satellite	8,000	22712
	Off-site	10,000	22713
Disposal facility using:			22714
Deep well injection	On-site and satellite	15,000	22715
	Off-site	25,000	22716
Landfill	On-site and satellite	25,000	22717
	Off-site	40,000	22718
Land application	On-site and satellite	2,500	22719
	Off-site	5,000	22720
Surface impoundment	On-site and satellite	10,000	22721
	Off-site	20,000	22722
Treatment facility using:			22723
Tanks	On-site, off-site, and		22724
	satellite	700	22725
Surface impoundment	On-site and satellite	8,000	22726
	Off-site	10,000	22727
Incinerator	On-site and satellite	5,000	22728

	Off-site	<u>10,000</u>	22729
Other forms			22730
of treatment	On-site, off-site, and		22731
	satellite	1,000	22732

In determining the annual permit fee required by this 22733
section, the director shall not require additional payments for 22734
multiple units of the same method of storage, treatment, or 22735
disposal or for individual units that are used for both storage 22736
and treatment. A facility using more than one method of storage, 22737
treatment, or disposal shall pay the permit fee indicated by the 22738
schedule for each such method. 22739

The director shall not require the payment of that portion of 22740
an annual permit fee of any permit holder that would apply to a 22741
hazardous waste management unit for which a permit has been 22742
issued, but for which construction has not yet commenced. Once 22743
construction has commenced, the director shall require the payment 22744
of a part of the appropriate fee indicated by the schedule that 22745
bears the same relationship to the total fee that the number of 22746
days remaining until the next anniversary date at which payment of 22747
the annual permit fee is due bears to three hundred sixty-five. 22748

The director, by rules adopted in accordance with Chapters 22749
119. and 3745. of the Revised Code, shall prescribe procedures for 22750
collecting the annual permit fee established by this division and 22751
may prescribe other requirements necessary to carry out this 22752
division. 22753

(3) The prohibition against establishing or operating a 22754
hazardous waste facility without a hazardous waste facility 22755
installation and operation permit ~~from the board~~ does not apply to 22756
either of the following: 22757

(a) A facility that is operating in accordance with a permit 22758
renewal issued under division (H) of section 3734.05 of the 22759

Revised Code, a revision issued under division (I) of that section 22760
as it existed prior to August 20, 1996, or a modification issued 22761
by the director under division (I) of that section on and after 22762
August 20, 1996; 22763

(b) Except as provided in division (J) of section 3734.05 of 22764
the Revised Code, a facility that will operate or is operating in 22765
accordance with a permit by rule, or that is not subject to permit 22766
requirements, under rules adopted by the director. In accordance 22767
with Chapter 119. of the Revised Code, the director shall adopt, 22768
and subsequently may amend, suspend, or rescind, rules for the 22769
purposes of division (E)(3)(b) of this section. Any rules so 22770
adopted shall be consistent with and equivalent to regulations 22771
pertaining to interim status adopted under the "Resource 22772
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 22773
6921, as amended, except as otherwise provided in this chapter. 22774

If a modification is requested or proposed for a facility 22775
described in division (E)(3)(a) or (b) of this section, division 22776
(I)~~(8)~~(7) of section 3734.05 of the Revised Code applies. 22777

(F) No person shall store, treat, or dispose of hazardous 22778
waste identified or listed under this chapter and rules adopted 22779
under it, regardless of whether generated on or off the premises 22780
where the waste is stored, treated, or disposed of, or transport 22781
or cause to be transported any hazardous waste identified or 22782
listed under this chapter and rules adopted under it to any other 22783
premises, except at or to any of the following: 22784

(1) A hazardous waste facility operating under a permit 22785
issued in accordance with this chapter; 22786

(2) A facility in another state operating under a license or 22787
permit issued in accordance with the "Resource Conservation and 22788
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 22789
amended; 22790

(3) A facility in another nation operating in accordance with the laws of that nation;

(4) A facility holding a permit issued pursuant to Title I of the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended;

(5) A hazardous waste facility as described in division (E)(3)(a) or (b) of this section.

(G) The director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes or hazardous waste, or processing solid wastes that consist of scrap tires, in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a registration certificate, permit, or license or comply with the manifest system or other requirements of this chapter. Such an exemption shall be consistent with and equivalent to any regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

(H) No person shall engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility, or a solid waste facility, was operated without prior authorization from the director, who shall establish the procedure for granting such authorization by rules adopted in accordance with Chapter 119. of the Revised Code.

A public utility that has main or distribution lines above or below the land surface located on an easement or right-of-way across land where a solid waste facility was operated may engage in any such activity within the easement or right-of-way without

prior authorization from the director for purposes of performing 22822
emergency repair or emergency replacement of its lines; of the 22823
poles, towers, foundations, or other structures supporting or 22824
sustaining any such lines; or of the appurtenances to those 22825
structures, necessary to restore or maintain existing public 22826
utility service. A public utility may enter upon any such easement 22827
or right-of-way without prior authorization from the director for 22828
purposes of performing necessary or routine maintenance of those 22829
portions of its existing lines; of the existing poles, towers, 22830
foundations, or other structures sustaining or supporting its 22831
lines; or of the appurtenances to any such supporting or 22832
sustaining structure, located on or above the land surface on any 22833
such easement or right-of-way. Within twenty-four hours after 22834
commencing any such emergency repair, replacement, or maintenance 22835
work, the public utility shall notify the director or the 22836
director's authorized representative of those activities and shall 22837
provide such information regarding those activities as the 22838
director or the director's representative may request. Upon 22839
completion of the emergency repair, replacement, or maintenance 22840
activities, the public utility shall restore any land of the solid 22841
waste facility disturbed by those activities to the condition 22842
existing prior to the commencement of those activities. 22843

(I) No owner or operator of a hazardous waste facility, in 22844
the operation of the facility, shall cause, permit, or allow the 22845
emission therefrom of any particulate matter, dust, fumes, gas, 22846
mist, smoke, vapor, or odorous substance that, in the opinion of 22847
the director, unreasonably interferes with the comfortable 22848
enjoyment of life or property by persons living or working in the 22849
vicinity of the facility, or that is injurious to public health. 22850
Any such action is hereby declared to be a public nuisance. 22851

(J) Notwithstanding any other provision of this chapter, in 22852
the event the director finds an imminent and substantial danger to 22853

public health or safety or the environment that creates an 22854
emergency situation requiring the immediate treatment, storage, or 22855
disposal of hazardous waste, the director may issue a temporary 22856
emergency permit to allow the treatment, storage, or disposal of 22857
the hazardous waste at a facility that is not otherwise authorized 22858
by a hazardous waste facility installation and operation permit to 22859
treat, store, or dispose of the waste. The emergency permit shall 22860
not exceed ninety days in duration and shall not be renewed. The 22861
director shall adopt, and may amend, suspend, or rescind, rules in 22862
accordance with Chapter 119. of the Revised Code governing the 22863
issuance, modification, revocation, and denial of emergency 22864
permits. 22865

(K) No owner or operator of a sanitary landfill shall 22866
knowingly accept for disposal, or dispose of, any infectious 22867
wastes, other than those subject to division (A)(1)(c) of section 22868
3734.021 of the Revised Code, that have not been treated to render 22869
them noninfectious. For the purposes of this division, 22870
certification by the owner or operator of the treatment facility 22871
where the wastes were treated on the shipping paper required by 22872
rules adopted under division (D)(2) of that section creates a 22873
rebuttable presumption that the wastes have been so treated. 22874

(L) The director, in accordance with Chapter 119. of the 22875
Revised Code, shall adopt, and may amend, suspend, or rescind, 22876
rules having uniform application throughout the state establishing 22877
a training and certification program that shall be required for 22878
employees of boards of health who are responsible for enforcing 22879
the solid waste and infectious waste provisions of this chapter 22880
and rules adopted under them and for persons who are responsible 22881
for the operation of solid waste facilities or infectious waste 22882
treatment facilities. The rules shall provide all of the 22883
following, without limitation: 22884

(1) The program shall be administered by the director and 22885

shall consist of a course on new solid waste and infectious waste technologies, enforcement procedures, and rules; 22886
22887

(2) The course shall be offered on an annual basis; 22888

(3) Those persons who are required to take the course under division (L) of this section shall do so triennially; 22889
22890

(4) Persons who successfully complete the course shall be certified by the director; 22891
22892

(5) Certification shall be required for all employees of boards of health who are responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and for all persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities; 22893
22894
22895
22896
22897
22898

(6)(a) All employees of a board of health who, on the effective date of the rules adopted under this division, are responsible for enforcing the solid waste or infectious waste provisions of this chapter and the rules adopted under them shall complete the course and be certified by the director not later than January 1, 1995; 22899
22900
22901
22902
22903
22904

(b) All employees of a board of health who, after the effective date of the rules adopted under division (L) of this section, become responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and who do not hold a current and valid certification from the director at that time shall complete the course and be certified by the director within two years after becoming responsible for performing those activities. 22905
22906
22907
22908
22909
22910
22911
22912

No person shall fail to obtain the certification required under this division. 22913
22914

(M) The director shall not issue a permit under section 22915

3734.05 of the Revised Code to establish a solid waste facility, 22916
or to modify a solid waste facility operating on December 21, 22917
1988, in a manner that expands the disposal capacity or geographic 22918
area covered by the facility, that is or is to be located within 22919
the boundaries of a state park established or dedicated under 22920
Chapter 1541. of the Revised Code, a state park purchase area 22921
established under section 1541.02 of the Revised Code, any unit of 22922
the national park system, or any property that lies within the 22923
boundaries of a national park or recreation area, but that has not 22924
been acquired or is not administered by the secretary of the 22925
United States department of the interior, located in this state, 22926
or any candidate area located in this state and identified for 22927
potential inclusion in the national park system in the edition of 22928
the "national park system plan" submitted under paragraph (b) of 22929
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 22930
U.S.C.A. 1a-5, as amended, current at the time of filing of the 22931
application for the permit, unless the facility or proposed 22932
facility is or is to be used exclusively for the disposal of solid 22933
wastes generated within the park or recreation area and the 22934
director determines that the facility or proposed facility will 22935
not degrade any of the natural or cultural resources of the park 22936
or recreation area. The director shall not issue a variance under 22937
division (A) of this section and rules adopted under it, or issue 22938
an exemption order under division (G) of this section, that would 22939
authorize any such establishment or expansion of a solid waste 22940
facility within the boundaries of any such park or recreation 22941
area, state park purchase area, or candidate area, other than a 22942
solid waste facility exclusively for the disposal of solid wastes 22943
generated within the park or recreation area when the director 22944
determines that the facility will not degrade any of the natural 22945
or cultural resources of the park or recreation area. 22946

(N)(1) The rules adopted under division (A) of this section, 22947
other than those governing variances, do not apply to scrap tire 22948

collection, storage, monocell, monofill, and recovery facilities. 22949
Those facilities are subject to and governed by rules adopted 22950
under sections 3734.70 to 3734.73 of the Revised Code, as 22951
applicable. 22952

(2) Division (C) of this section does not apply to scrap tire 22953
collection, storage, monocell, monofill, and recovery facilities. 22954
The establishment and modification of those facilities are subject 22955
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 22956
Code, as applicable. 22957

(3) The director may adopt, amend, suspend, or rescind rules 22958
under division (A) of this section creating an alternative system 22959
for authorizing the establishment, operation, or modification of a 22960
solid waste compost facility in lieu of the requirement that a 22961
person seeking to establish, operate, or modify a solid waste 22962
compost facility apply for and receive a permit under division (C) 22963
of this section and section 3734.05 of the Revised Code and a 22964
license under division (A)(1) of that section. The rules may 22965
include requirements governing, without limitation, the 22966
classification of solid waste compost facilities, the submittal of 22967
operating records for solid waste compost facilities, and the 22968
creation of a registration or notification system in lieu of the 22969
issuance of permits and licenses for solid waste compost 22970
facilities. The rules shall specify the applicability of divisions 22971
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 22972
Code to a solid waste compost facility. 22973

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), 22974
(8), and (9) of this section, no person shall operate or maintain 22975
a solid waste facility without a license issued under this 22976
division by the board of health of the health district in which 22977
the facility is located or by the director of environmental 22978
protection when the health district in which the facility is 22979

located is not on the approved list under section 3734.08 of the Revised Code. 22980
22981

During the month of December, but before the first day of 22982
January of the next year, every person proposing to continue to 22983
operate an existing solid waste facility shall procure a license 22984
under this division to operate the facility for that year from the 22985
board of health of the health district in which the facility is 22986
located or, if the health district is not on the approved list 22987
under section 3734.08 of the Revised Code, from the director. The 22988
application for such a license shall be submitted to the board of 22989
health or to the director, as appropriate, on or before the last 22990
day of September of the year preceding that for which the license 22991
is sought. In addition to the application fee prescribed in 22992
division (A)(2) of this section, a person who submits an 22993
application after that date shall pay an additional ten per cent 22994
of the amount of the application fee for each week that the 22995
application is late. Late payment fees accompanying an application 22996
submitted to the board of health shall be credited to the special 22997
fund of the health district created in division (B) of section 22998
3734.06 of the Revised Code, and late payment fees accompanying an 22999
application submitted to the director shall be credited to the 23000
general revenue fund. A person who has received a license, upon 23001
sale or disposition of a solid waste facility, and upon consent of 23002
the board of health and the director, may have the license 23003
transferred to another person. The board of health or the director 23004
may include such terms and conditions in a license or revision to 23005
a license as are appropriate to ensure compliance with this 23006
chapter and rules adopted under it. The terms and conditions may 23007
establish the authorized maximum daily waste receipts for the 23008
facility. Limitations on maximum daily waste receipts shall be 23009
specified in cubic yards of volume for the purpose of regulating 23010
the design, construction, and operation of solid waste facilities. 23011
Terms and conditions included in a license or revision to a 23012

license by a board of health shall be consistent with, and pertain 23013
only to the subjects addressed in, the rules adopted under 23014
division (A) of section 3734.02 and division (D) of section 23015
3734.12 of the Revised Code. 23016

(2)(a) Except as provided in divisions (A)(2)(b), (8), and 23017
(9) of this section, each person proposing to open a new solid 23018
waste facility or to modify an existing solid waste facility shall 23019
submit an application for a permit with accompanying detail plans 23020
and specifications to the environmental protection agency for 23021
required approval under the rules adopted by the director pursuant 23022
to division (A) of section 3734.02 of the Revised Code and 23023
applicable rules adopted under division (D) of section 3734.12 of 23024
the Revised Code at least two hundred seventy days before proposed 23025
operation of the facility and shall concurrently make application 23026
for the issuance of a license under division (A)(1) of this 23027
section with the board of health of the health district in which 23028
the proposed facility is to be located. 23029

(b) On and after the effective date of the rules adopted 23030
under division (A) of section 3734.02 of the Revised Code and 23031
division (D) of section 3734.12 of the Revised Code governing 23032
solid waste transfer facilities, each person proposing to open a 23033
new solid waste transfer facility or to modify an existing solid 23034
waste transfer facility shall submit an application for a permit 23035
with accompanying engineering detail plans, specifications, and 23036
information regarding the facility and its method of operation to 23037
the environmental protection agency for required approval under 23038
those rules at least two hundred seventy days before commencing 23039
proposed operation of the facility and concurrently shall make 23040
application for the issuance of a license under division (A)(1) of 23041
this section with the board of health of the health district in 23042
which the facility is located or proposed. 23043

(c) Each application for a permit under division (A)(2)(a) or 23044

(b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (A)(1) or (2) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special fund of the health district created in division (B) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section 3745.11 of the Revised Code or the amount of the license fee due under division (A)(1), (2), (3), or (4) of section 3734.06 of the Revised Code.

(d) As used in divisions (A)(2)(d), (e), and (f) of this section, "modify" means any of the following:

(i) Any increase of more than ten per cent in the total capacity of a solid waste facility;

(ii) Any expansion of the limits of solid waste placement at a solid waste facility;

(iii) Any increase in the depth of excavation at a solid waste facility;

(iv) Any change in the technique of waste receipt or type of waste received at a solid waste facility that may endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code.

Not later than thirty-five days after submitting an application under division (A)(2)(a) or (b) of this section for a

permit to open a new or modify an existing solid waste facility, 23076
the applicant, in conjunction with an officer or employee of the 23077
environmental protection agency, shall hold a public meeting on 23078
the application within the county in which the new or modified 23079
solid waste facility is or is proposed to be located or within a 23080
contiguous county. Not less than thirty days before holding the 23081
public meeting on the application, the applicant shall publish 23082
notice of the meeting in each newspaper of general circulation 23083
that is published in the county in which the facility is or is 23084
proposed to be located. If no newspaper of general circulation is 23085
published in the county, the applicant shall publish the notice in 23086
a newspaper of general circulation in the county. The notice shall 23087
contain the date, time, and location of the public meeting and a 23088
general description of the proposed new or modified facility. Not 23089
later than five days after publishing the notice, the applicant 23090
shall send by certified mail a copy of the notice and the date the 23091
notice was published to the director and the legislative authority 23092
of each municipal corporation, township, and county, and to the 23093
chief executive officer of each municipal corporation, in which 23094
the facility is or is proposed to be located. At the public 23095
meeting, the applicant shall provide information and describe the 23096
application and respond to comments or questions concerning the 23097
application, and the officer or employee of the agency shall 23098
describe the permit application process. At the public meeting, 23099
any person may submit written or oral comments on or objections to 23100
the application. Not more than thirty days after the public 23101
meeting, the applicant shall provide the director with a copy of a 23102
transcript of the full meeting, copies of any exhibits, displays, 23103
or other materials presented by the applicant at the meeting, and 23104
the original copy of any written comments submitted at the 23105
meeting. 23106

(e) Except as provided in division (A)(2)(f) of this section, 23107
prior to taking an action, other than a proposed or final denial, 23108

upon an application submitted under division (A)(2)(a) of this 23109
section for a permit to open a new or modify an existing solid 23110
waste facility, the director shall hold a public information 23111
session and a public hearing on the application within the county 23112
in which the new or modified solid waste facility is or is 23113
proposed to be located or within a contiguous county. If the 23114
application is for a permit to open a new solid waste facility, 23115
the director shall hold the hearing not less than fourteen days 23116
after the information session. If the application is for a permit 23117
to modify an existing solid waste facility, the director may hold 23118
both the information session and the hearing on the same day 23119
unless any individual affected by the application requests in 23120
writing that the information session and the hearing not be held 23121
on the same day, in which case the director shall hold the hearing 23122
not less than fourteen days after the information session. The 23123
director shall publish notice of the public information session or 23124
public hearing not less than thirty days before holding the 23125
information session or hearing, as applicable. The notice shall be 23126
published in each newspaper of general circulation that is 23127
published in the county in which the facility is or is proposed to 23128
be located. If no newspaper of general circulation is published in 23129
the county, the director shall publish the notice in a newspaper 23130
of general circulation in the county. The notice shall contain the 23131
date, time, and location of the information session or hearing, as 23132
applicable, and a general description of the proposed new or 23133
modified facility. At the public information session, an officer 23134
or employee of the environmental protection agency shall describe 23135
the status of the permit application and be available to respond 23136
to comments or questions concerning the application. At the public 23137
hearing, any person may submit written or oral comments on or 23138
objections to the approval of the application. The applicant, or a 23139
representative of the applicant who has knowledge of the location, 23140
construction, and operation of the facility, shall attend the 23141

information session and public hearing to respond to comments or 23142
questions concerning the facility directed to the applicant or 23143
representative by the officer or employee of the environmental 23144
protection agency presiding at the information session and 23145
hearing. 23146

(f) The solid waste management policy committee of a county 23147
or joint solid waste management district may adopt a resolution 23148
requesting expeditious consideration of a specific application 23149
submitted under division (A)(2)(a) of this section for a permit to 23150
modify an existing solid waste facility within the district. The 23151
resolution shall make the finding that expedited consideration of 23152
the application without the public information session and public 23153
hearing under division (A)(2)(e) of this section is in the public 23154
interest and will not endanger human health, as determined by the 23155
director by rules adopted in accordance with Chapter 119. of the 23156
Revised Code. Upon receiving such a resolution, the director, at 23157
the director's discretion, may issue a final action upon the 23158
application without holding a public information session or public 23159
hearing pursuant to division (A)(2)(e) of this section. 23160

(3) Except as provided in division (A)(10) of this section, 23161
and unless the owner or operator of any solid waste facility, 23162
other than a solid waste transfer facility or a compost facility 23163
that accepts exclusively source separated yard wastes, that 23164
commenced operation on or before July 1, 1968, has obtained an 23165
exemption from the requirements of division (A)(3) of this section 23166
in accordance with division (G) of section 3734.02 of the Revised 23167
Code, the owner or operator shall submit to the director an 23168
application for a permit with accompanying engineering detail 23169
plans, specifications, and information regarding the facility and 23170
its method of operation for approval under rules adopted under 23171
division (A) of section 3734.02 of the Revised Code and applicable 23172
rules adopted under division (D) of section 3734.12 of the Revised 23173

Code in accordance with the following schedule:	23174
(a) Not later than September 24, 1988, if the facility is located in the city of Garfield Heights or Parma in Cuyahoga county;	23175 23176 23177
(b) Not later than December 24, 1988, if the facility is located in Delaware, Greene, Guernsey, Hamilton, Madison, Mahoning, Ottawa, or Vinton county;	23178 23179 23180
(c) Not later than March 24, 1989, if the facility is located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or Washington county, or is located in the city of Brooklyn or Cuyahoga Heights in Cuyahoga county;	23181 23182 23183 23184
(d) Not later than June 24, 1989, if the facility is located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or Summit county or is located in Cuyahoga county outside the cities of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights;	23185 23186 23187 23188
(e) Not later than September 24, 1989, if the facility is located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross county;	23189 23190 23191
(f) Not later than December 24, 1989, if the facility is located in a county not listed in divisions (A)(3)(a) to (e) of this section;	23192 23193 23194
(g) Notwithstanding divisions (A)(3)(a) to (f) of this section, not later than December 31, 1990, if the facility is a solid waste facility owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated and if the facility disposes of more than one hundred thousand tons of solid wastes per year, provided that any such facility shall be subject to division (A)(5) of this section.	23195 23196 23197 23198 23199 23200 23201 23202 23203 23204

(4) Except as provided in divisions (A)(8), (9), and (10) of 23205
this section, unless the owner or operator of any solid waste 23206
facility for which a permit was issued after July 1, 1968, but 23207
before January 1, 1980, has obtained an exemption from the 23208
requirements of division (A)(4) of this section under division (G) 23209
of section 3734.02 of the Revised Code, the owner or operator 23210
shall submit to the director an application for a permit with 23211
accompanying engineering detail plans, specifications, and 23212
information regarding the facility and its method of operation for 23213
approval under those rules. 23214

(5) The director may issue an order in accordance with 23215
Chapter 3745. of the Revised Code to the owner or operator of a 23216
solid waste facility requiring the person to submit to the 23217
director updated engineering detail plans, specifications, and 23218
information regarding the facility and its method of operation for 23219
approval under rules adopted under division (A) of section 3734.02 23220
of the Revised Code and applicable rules adopted under division 23221
(D) of section 3734.12 of the Revised Code if, in the director's 23222
judgment, conditions at the facility constitute a substantial 23223
threat to public health or safety or are causing or contributing 23224
to or threatening to cause or contribute to air or water pollution 23225
or soil contamination. Any person who receives such an order shall 23226
submit the updated engineering detail plans, specifications, and 23227
information to the director within one hundred eighty days after 23228
the effective date of the order. 23229

(6) The director shall act upon an application submitted 23230
under division (A)(3) or (4) of this section and any updated 23231
engineering plans, specifications, and information submitted under 23232
division (A)(5) of this section within one hundred eighty days 23233
after receiving them. If the director denies any such permit 23234
application, the order denying the application or disapproving the 23235
plans shall include the requirements that the owner or operator 23236

submit a plan for closure and post-closure care of the facility to 23237
the director for approval within six months after issuance of the 23238
order, cease accepting solid wastes for disposal or transfer at 23239
the facility, and commence closure of the facility not later than 23240
one year after issuance of the order. If the director determines 23241
that closure of the facility within that one-year period would 23242
result in the unavailability of sufficient solid waste management 23243
facility capacity within the county or joint solid waste 23244
management district in which the facility is located to dispose of 23245
or transfer the solid waste generated within the district, the 23246
director in the order of denial or disapproval may postpone 23247
commencement of closure of the facility for such period of time as 23248
the director finds necessary for the board of county commissioners 23249
or directors of the district to secure access to or for there to 23250
be constructed within the district sufficient solid waste 23251
management facility capacity to meet the needs of the district, 23252
provided that the director shall certify in the director's order 23253
that postponing the date for commencement of closure will not 23254
endanger ground water or any property surrounding the facility, 23255
allow methane gas migration to occur, or cause or contribute to 23256
any other type of environmental damage. 23257

If an emergency need for disposal capacity that may affect 23258
public health and safety exists as a result of closure of a 23259
facility under division (A)(6) of this section, the director may 23260
issue an order designating another solid waste facility to accept 23261
the wastes that would have been disposed of at the facility to be 23262
closed. 23263

(7) If the director determines that standards more stringent 23264
than those applicable in rules adopted under division (A) of 23265
section 3734.02 of the Revised Code and division (D) of section 23266
3734.12 of the Revised Code, or standards pertaining to subjects 23267
not specifically addressed by those rules, are necessary to ensure 23268

that a solid waste facility constructed at the proposed location 23269
will not cause a nuisance, cause or contribute to water pollution, 23270
or endanger public health or safety, the director may issue a 23271
permit for the facility with such terms and conditions as the 23272
director finds necessary to protect public health and safety and 23273
the environment. If a permit is issued, the director shall state 23274
in the order issuing it the specific findings supporting each such 23275
term or condition. 23276

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do 23277
not apply to a solid waste compost facility that accepts 23278
exclusively source separated yard wastes and that is registered 23279
under division (C) of section 3734.02 of the Revised Code or, 23280
unless otherwise provided in rules adopted under division (N)(3) 23281
of section 3734.02 of the Revised Code, to a solid waste compost 23282
facility if the director has adopted rules establishing an 23283
alternative system for authorizing the establishment, operation, 23284
or modification of a solid waste compost facility under that 23285
division. 23286

(9) Divisions (A)(1) to (7) of this section do not apply to 23287
scrap tire collection, storage, monocell, monofill, and recovery 23288
facilities. The approval of plans and specifications, as 23289
applicable, and the issuance of registration certificates, 23290
permits, and licenses for those facilities are subject to sections 23291
3734.75 to 3734.78 of the Revised Code, as applicable, and section 23292
3734.81 of the Revised Code. 23293

(10) Divisions (A)(3) and (4) of this section do not apply to 23294
a solid waste incinerator that was placed into operation on or 23295
before October 12, 1994, and that is not authorized to accept and 23296
treat infectious wastes pursuant to division (B) of this section. 23297

(B)(1) Each person who is engaged in the business of treating 23298
infectious wastes for profit at a treatment facility located off 23299
the premises where the wastes are generated that is in operation 23300

on August 10, 1988, and who proposes to continue operating the 23301
facility shall submit to the board of health of the health 23302
district in which the facility is located an application for a 23303
license to operate the facility. 23304

Thereafter, no person shall operate or maintain an infectious 23305
waste treatment facility without a license issued by the board of 23306
health of the health district in which the facility is located or 23307
by the director when the health district in which the facility is 23308
located is not on the approved list under section 3734.08 of the 23309
Revised Code. 23310

(2)(a) During the month of December, but before the first day 23311
of January of the next year, every person proposing to continue to 23312
operate an existing infectious waste treatment facility shall 23313
procure a license to operate the facility for that year from the 23314
board of health of the health district in which the facility is 23315
located or, if the health district is not on the approved list 23316
under section 3734.08 of the Revised Code, from the director. The 23317
application for such a license shall be submitted to the board of 23318
health or to the director, as appropriate, on or before the last 23319
day of September of the year preceding that for which the license 23320
is sought. In addition to the application fee prescribed in 23321
division (B)(2)(c) of this section, a person who submits an 23322
application after that date shall pay an additional ten per cent 23323
of the amount of the application fee for each week that the 23324
application is late. Late payment fees accompanying an application 23325
submitted to the board of health shall be credited to the special 23326
infectious waste fund of the health district created in division 23327
(C) of section 3734.06 of the Revised Code, and late payment fees 23328
accompanying an application submitted to the director shall be 23329
credited to the general revenue fund. A person who has received a 23330
license, upon sale or disposition of an infectious waste treatment 23331
facility and upon consent of the board of health and the director, 23332

may have the license transferred to another person. The board of 23333
health or the director may include such terms and conditions in a 23334
license or revision to a license as are appropriate to ensure 23335
compliance with the infectious waste provisions of this chapter 23336
and rules adopted under them. 23337

(b) Each person proposing to open a new infectious waste 23338
treatment facility or to modify an existing infectious waste 23339
treatment facility shall submit an application for a permit with 23340
accompanying detail plans and specifications to the environmental 23341
protection agency for required approval under the rules adopted by 23342
the director pursuant to section 3734.021 of the Revised Code two 23343
hundred seventy days before proposed operation of the facility and 23344
concurrently shall make application for a license with the board 23345
of health of the health district in which the facility is or is 23346
proposed to be located. Not later than ninety days after receiving 23347
a completed application under division (B)(2)(b) of this section 23348
for a permit to open a new infectious waste treatment facility or 23349
modify an existing infectious waste treatment facility to expand 23350
its treatment capacity, or receiving a completed application under 23351
division (A)(2)(a) of this section for a permit to open a new 23352
solid waste incineration facility, or modify an existing solid 23353
waste incineration facility to also treat infectious wastes or to 23354
increase its infectious waste treatment capacity, that pertains to 23355
a facility for which a notation authorizing infectious waste 23356
treatment is included or proposed to be included in the solid 23357
waste incineration facility's license pursuant to division (B)(3) 23358
of this section, the director shall hold a public hearing on the 23359
application within the county in which the new or modified 23360
infectious waste or solid waste facility is or is proposed to be 23361
located or within a contiguous county. Not less than thirty days 23362
before holding the public hearing on the application, the director 23363
shall publish notice of the hearing in each newspaper that has 23364
general circulation and that is published in the county in which 23365

the facility is or is proposed to be located. If there is no 23366
newspaper that has general circulation and that is published in 23367
the county, the director shall publish the notice in a newspaper 23368
of general circulation in the county. The notice shall contain the 23369
date, time, and location of the public hearing and a general 23370
description of the proposed new or modified facility. At the 23371
public hearing, any person may submit written or oral comments on 23372
or objections to the approval or disapproval of the application. 23373
The applicant, or a representative of the applicant who has 23374
knowledge of the location, construction, and operation of the 23375
facility, shall attend the public hearing to respond to comments 23376
or questions concerning the facility directed to the applicant or 23377
representative by the officer or employee of the environmental 23378
protection agency presiding at the hearing. 23379

(c) Each application for a permit under division (B)(2)(b) of 23380
this section shall be accompanied by a nonrefundable application 23381
fee of four hundred dollars that shall be credited to the general 23382
revenue fund. Each application for an annual license under 23383
division (B)(2)(a) of this section shall be accompanied by a 23384
nonrefundable application fee of one hundred dollars. If the 23385
application for an annual license is submitted to a board of 23386
health on the approved list under section 3734.08 of the Revised 23387
Code, the application fee shall be credited to the special 23388
infectious waste fund of the health district created in division 23389
(C) of section 3734.06 of the Revised Code. If the application for 23390
an annual license is submitted to the director, the application 23391
fee shall be credited to the general revenue fund. If a permit or 23392
license is issued, the amount of the application fee paid shall be 23393
deducted from the amount of the permit fee due under division (Q) 23394
of section 3745.11 of the Revised Code or the amount of the 23395
license fee due under division (C) of section 3734.06 of the 23396
Revised Code. 23397

(d) The owner or operator of any infectious waste treatment 23398
facility that commenced operation on or before July 1, 1968, shall 23399
submit to the director an application for a permit with 23400
accompanying engineering detail plans, specifications, and 23401
information regarding the facility and its method of operation for 23402
approval under rules adopted under section 3734.021 of the Revised 23403
Code in accordance with the following schedule: 23404

(i) Not later than December 24, 1988, if the facility is 23405
located in Delaware, Greene, Guernsey, Hamilton, Madison, 23406
Mahoning, Ottawa, or Vinton county; 23407

(ii) Not later than March 24, 1989, if the facility is 23408
located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, 23409
or Washington county, or is located in the city of Brooklyn, 23410
Cuyahoga Heights, or Parma in Cuyahoga county; 23411

(iii) Not later than June 24, 1989, if the facility is 23412
located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, 23413
Lucas, or Summit county or is located in Cuyahoga county outside 23414
the cities of Brooklyn, Cuyahoga Heights, and Parma; 23415

(iv) Not later than September 24, 1989, if the facility is 23416
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 23417
county; 23418

(v) Not later than December 24, 1989, if the facility is 23419
located in a county not listed in divisions (B)(2)(d)(i) to (iv) 23420
of this section. 23421

The owner or operator of an infectious waste treatment 23422
facility required to submit a permit application under division 23423
(B)(2)(d) of this section is not required to pay any permit 23424
application fee under division (B)(2)(c) of this section, or 23425
permit fee under division (Q) of section 3745.11 of the Revised 23426
Code, with respect thereto unless the owner or operator also 23427
proposes to modify the facility. 23428

(e) The director may issue an order in accordance with 23429
Chapter 3745. of the Revised Code to the owner or operator of an 23430
infectious waste treatment facility requiring the person to submit 23431
to the director updated engineering detail plans, specifications, 23432
and information regarding the facility and its method of operation 23433
for approval under rules adopted under section 3734.021 of the 23434
Revised Code if, in the director's judgment, conditions at the 23435
facility constitute a substantial threat to public health or 23436
safety or are causing or contributing to or threatening to cause 23437
or contribute to air or water pollution or soil contamination. Any 23438
person who receives such an order shall submit the updated 23439
engineering detail plans, specifications, and information to the 23440
director within one hundred eighty days after the effective date 23441
of the order. 23442

(f) The director shall act upon an application submitted 23443
under division (B)(2)(d) of this section and any updated 23444
engineering plans, specifications, and information submitted under 23445
division (B)(2)(e) of this section within one hundred eighty days 23446
after receiving them. If the director denies any such permit 23447
application or disapproves any such updated engineering plans, 23448
specifications, and information, the director shall include in the 23449
order denying the application or disapproving the plans the 23450
requirement that the owner or operator cease accepting infectious 23451
wastes for treatment at the facility. 23452

(3) Division (B) of this section does not apply to an 23453
infectious waste treatment facility that meets any of the 23454
following conditions: 23455

(a) Is owned or operated by the generator of the wastes and 23456
exclusively treats, by methods, techniques, and practices 23457
established by rules adopted under division (C)(1) or (3) of 23458
section 3734.021 of the Revised Code, wastes that are generated at 23459
any premises owned or operated by that generator regardless of 23460

whether the wastes are generated on the same premises where the
generator's treatment facility is located or, if the generator is
a hospital as defined in section 3727.01 of the Revised Code,
infectious wastes that are described in division (A)(1)(g), (h),
or (i) of section 3734.021 of the Revised Code;

(b) Holds a license or renewal of a license to operate a
crematory facility issued under Chapter 4717. and a permit issued
under Chapter 3704. of the Revised Code;

(c) Treats or disposes of dead animals or parts thereof, or
the blood of animals, and is subject to any of the following:

(i) Inspection under the "Federal Meat Inspection Act," 81
Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(ii) Chapter 918. of the Revised Code;

(iii) Chapter 953. of the Revised Code.

Nothing in division (B) of this section requires a facility
that holds a license issued under division (A) of this section as
a solid waste facility and that also treats infectious wastes by
the same method, technique, or process to obtain a license under
division (B) of this section as an infectious waste treatment
facility. However, the solid waste facility license for the
facility shall include the notation that the facility also treats
infectious wastes.

On and after the effective date of the amendments to the
rules adopted under division (C)(2) of section 3734.021 of the
Revised Code that are required by Section 6 of Substitute House
Bill No. 98 of the 120th General Assembly, the director shall not
issue a permit to open a new solid waste incineration facility
unless the proposed facility complies with the requirements for
the location of new infectious waste incineration facilities
established in the required amendments to those rules.

(C) Except for a facility or activity described in division 23491
(E)(3) of section 3734.02 of the Revised Code, a person who 23492
proposes to establish or operate a hazardous waste facility shall 23493
submit ~~an~~ a complete application for a hazardous waste facility 23494
installation and operation permit and accompanying detail plans, 23495
specifications, and such information as the director may require 23496
to the environmental protection agency, ~~except as provided in~~ 23497
~~division (E)(2) of this section,~~ at least one hundred eighty days 23498
before the proposed beginning of operation of the facility. The 23499
applicant shall notify by certified mail the legislative authority 23500
of each municipal corporation, township, and county in which the 23501
facility is proposed to be located of the submission of the 23502
application within ten days after the submission or at such 23503
earlier time as the director may establish by rule. If the 23504
application is for a proposed new hazardous waste disposal or 23505
thermal treatment facility, the applicant also shall give actual 23506
notice of the general design and purpose of the facility to the 23507
legislative authority of each municipal corporation, township, and 23508
county in which the facility is proposed to be located at least 23509
ninety days before the permit application is submitted to the 23510
environmental protection agency. 23511

In accordance with rules adopted under section 3734.12 of the 23512
Revised Code, prior to the submission of a complete application 23513
for a hazardous waste facility installation and operation permit, 23514
the applicant shall hold at least one meeting in the township or 23515
municipal corporation in which the facility is proposed to be 23516
located, whichever is geographically closer to the proposed 23517
location of the facility. The meeting shall be open to the public 23518
and shall be held to inform the community of the proposed 23519
hazardous waste management activities and to solicit questions 23520
from the community concerning the activities. 23521

(D)(1) ~~There is hereby created the hazardous waste facility~~ 23522

~~board, composed of the director of environmental protection who 23523
shall serve as chairperson, the director of natural resources, and 23524
the chairperson of the Ohio water development authority, or their 23525
respective designees, and one chemical engineer and one geologist 23526
who each shall be employed by a state university as defined in 23527
section 3345.011 of the Revised Code. The chemical engineer and 23528
geologist each shall be appointed by the governor, with the advice 23529
and consent of the senate, for a term of two years. The chemical 23530
engineer and geologist each shall receive as compensation five 23531
thousand dollars per year, plus expenses necessarily incurred in 23532
the performance of their duties. 23533~~

~~The board shall not issue any final order without the consent 23534
of at least three members. 23535~~

~~(2) The hazardous waste facility board shall do both of the 23536
following: 23537~~

~~(a) Pursuant to Chapter 119. of the Revised Code, adopt rules 23538
governing procedure to be followed in hearings before the board: 23539~~

~~(b) Except as provided in section 3734.123 of the Revised 23540
Code, approve or disapprove applications for a hazardous waste 23541
facility installation and operation permit for new facilities and 23542
applications for modifications to existing permits for which the 23543
board has jurisdiction as provided in division (I)(3) of this 23544
section. 23545~~

~~(3) Except as provided in section 3734.123 of the Revised 23546
Code, upon receipt of the completed application for a hazardous 23547
waste facility installation and operation permit and a preliminary 23548
determination by the staff of the environmental protection agency 23549
that the application appears to comply with agency rules and to 23550
meet the performance standards set forth in divisions (D), (I), 23551
and (J) of section 3734.12 of the Revised Code, the director shall 23552
transmit the application to the board, which shall do all of the 23553~~

following: 23554

~~(a) Promptly fix a date for a public hearing on the application, not fewer than sixty nor more than ninety days after receipt of the completed application. At the public hearing, any person may submit written or oral comments or objections to the approval or disapproval of the application. A representative of the applicant who has knowledge of the location, construction, operation, closure, and post closure care, if applicable, of the facility shall attend the public hearing in order to respond to comments or questions concerning the facility directed to the representative by the presiding officer.~~ 23555
23556
23557
23558
23559
23560
23561
23562
23563
23564

~~(b) Give public notice of the date of the public hearing and a summary of the application in a newspaper having general circulation in the county in which the facility is proposed to be located. The notice shall contain, at a minimum, the date, time, and location of the public hearing and shall include the location and street address of, or the nearest intersection to, the proposed facility, a description of the proposed facility, and the location where copies of the application, a short statement by the applicant of the anticipated environmental impact of the facility, and a map of the facility are available for inspection.~~ 23565
23566
23567
23568
23569
23570
23571
23572
23573
23574

~~(c) Promptly fix a date for an adjudication hearing, not fewer than ninety nor more than one hundred twenty days after receipt of the completed application, at which hearing the board shall hear and decide all disputed issues between the parties respecting the approval or disapproval of the application.~~ 23575
23576
23577
23578
23579

~~(4) The parties to any adjudication hearing before the board upon a completed application shall be the following:~~ 23580
23581

~~(a) The applicant;~~ 23582

~~(b) The staff of the environmental protection agency;~~ 23583

~~(c) The board of county commissioners of the county, the~~ 23584

~~board of township trustees of the township, and the chief 23585
executive officer of the municipal corporation in which the 23586
facility is proposed to be located; 23587~~

~~(d) Any other person who would be aggrieved or adversely 23588
affected by the proposed facility and who files a petition to 23589
intervene in the adjudication hearing not later than thirty days 23590
after the date of publication of the notice required in division 23591
(D)(3)(b) of this section if the petition is granted by the board 23592
for good cause shown. The board may allow intervention by other 23593
aggrieved or adversely affected persons up to fifteen days prior 23594
to the date of the adjudication hearing for good cause shown when 23595
the intervention would not be unduly burdensome to or cause a 23596
delay in the permitting process. 23597~~

~~(5) The hazardous waste facility board shall conduct any 23598
adjudication hearing upon disputed issues in accordance with 23599
Chapter 119. of the Revised Code and the rules of the board 23600
governing the procedure of such hearings. Each party may call and 23601
examine witnesses and submit other evidence respecting the 23602
disputed issues presented by an application. A written record 23603
shall be made of the hearing and of all testimony and evidence 23604
submitted to the board upon receipt of a complete application for 23605
a hazardous waste facility installation and operation permit under 23606
division (C) of this section, the director shall consider the 23607
application and accompanying information to determine whether the 23608
application complies with agency rules and the requirements of 23609
division (D)(2) of this section. After making a determination, the 23610
director shall issue either a draft permit or a notice of intent 23611
to deny the permit. The director, in accordance with rules adopted 23612
under section 3734.12 of the Revised Code or with rules adopted to 23613
implement Chapter 3745. of the Revised Code, shall provide public 23614
notice of the application and the draft permit or the notice of 23615
intent to deny the permit, provide an opportunity for public 23616~~

comments, and, if significant interest is shown, schedule a public 23617
meeting in the county in which the facility is proposed to be 23618
located and give public notice of the date, time, and location of 23619
the public meeting in a newspaper of general circulation in that 23620
county. 23621

~~(6)~~(2) The ~~board~~ director shall not approve an application 23622
for a hazardous waste facility installation and operation permit 23623
or an application for a modification under division (I)(3) of this 23624
section unless ~~it~~ the director finds and determines as follows: 23625

(a) The nature and volume of the waste to be treated, stored, 23626
or disposed of at the facility; 23627

(b) That the facility complies with the director's hazardous 23628
waste standards adopted pursuant to section 3734.12 of the Revised 23629
Code; 23630

(c) That the facility represents the minimum adverse 23631
environmental impact, considering the state of available 23632
technology and the nature and economics of various alternatives, 23633
and other pertinent considerations; 23634

(d) That the facility represents the minimum risk of all of 23635
the following: 23636

~~(i) Contamination of ground and surface waters;~~ 23637

~~(ii)~~ Fires or explosions from treatment, storage, or disposal 23638
methods; 23639

~~(iii) Accident~~ (ii) Release of hazardous waste during 23640
transportation of hazardous waste to or from the facility; 23641

~~(iv) Impact~~ (iii) Adverse impact on the public health and 23642
safety; 23643

~~(v) Air pollution;~~ 23644

~~(vi) Soil contamination.~~ 23645

(e) That the facility will comply with this chapter and 23646
Chapters 3704., ~~3734.~~, and 6111. of the Revised Code and all rules 23647
and standards adopted under ~~those chapters~~ them; 23648

(f) That if the owner of the facility, the operator of the 23649
facility, or any other person in a position with the facility from 23650
which the person may influence the installation and operation of 23651
the facility has been involved in any prior activity involving 23652
transportation, treatment, storage, or disposal of hazardous 23653
waste, that person has a history of compliance with this chapter 23654
and Chapters 3704., ~~3734.~~, and 6111. of the Revised Code and all 23655
rules and standards adopted under ~~those chapters~~ them, the 23656
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 23657
42 U.S.C.A. 6921, as amended, and all regulations adopted under 23658
it, and similar laws and rules of other states if any such prior 23659
operation was located in another state that demonstrates 23660
sufficient reliability, expertise, and competency to operate a 23661
hazardous waste facility under the applicable provisions of this 23662
chapter and Chapters 3704., ~~3734.~~, and 6111. of the Revised Code, 23663
the applicable rules and standards adopted under ~~those chapters~~ 23664
them, and terms and conditions of a hazardous waste facility 23665
installation and operation permit, given the potential for harm to 23666
the public health and safety and the environment that could result 23667
from the irresponsible operation of the facility~~+~~. For off-site 23668
facilities, as defined in section 3734.41 of the Revised Code, the 23669
director may use the investigative reports of the attorney general 23670
prepared pursuant to section 3734.42 of the Revised Code as a 23671
basis for making a finding and determination under division 23672
(D)(2)(f) of this section. 23673

(g) That the active areas within a new hazardous waste 23674
facility where acute hazardous waste as listed in 40 C.F.R. 261.33 23675
(e), as amended, or organic waste that is toxic and is listed 23676
under 40 C.F.R. 261, as amended, is being stored, treated, or 23677

disposed of and where the aggregate of the storage design capacity 23678
and the disposal design capacity of all hazardous waste in those 23679
areas is greater than two hundred fifty thousand gallons, are not 23680
located or operated within any of the following: 23681

(i) Two thousand feet of any residence, school, hospital, 23682
jail, or prison; 23683

(ii) Any naturally occurring wetland; 23684

(iii) Any flood hazard area if the applicant cannot show that 23685
the facility will be designed, constructed, operated, and 23686
maintained to prevent washout by a one-hundred-year flood ~~or that~~ 23687
~~procedures will be in effect to remove the waste before flood~~ 23688
~~waters can reach it.~~ 23689

Division (D)~~(6)~~(2)(g) of this section does not apply to the 23690
facility of any applicant who demonstrates to the ~~board~~ director 23691
that the limitations specified in that division are not necessary 23692
because of the nature or volume of the waste and the manner of 23693
management applied, the facility will impose no substantial danger 23694
to the health and safety of persons occupying the structures 23695
listed in division (D)~~(6)~~(2)(g)(i) of this section, and the 23696
facility is to be located or operated in an area where the 23697
proposed hazardous waste activities will not be incompatible with 23698
existing land uses in the area. 23699

(h) That the facility will not be located within the 23700
boundaries of a state park established or dedicated under Chapter 23701
1541. of the Revised Code, a state park purchase area established 23702
under section 1541.02 of the Revised Code, any unit of the 23703
national park system, or any property that lies within the 23704
boundaries of a national park or recreation area, but that has not 23705
been acquired or is not administered by the secretary of the 23706
United States department of the interior, located in this state, 23707
or any candidate area located in this state identified for 23708

potential inclusion in the national park system in the edition of 23709
the "national park system plan" submitted under paragraph (b) of 23710
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 23711
U.S.C.A. 1a-5, as amended, current at the time of filing of the 23712
application for the permit, unless the facility will be used 23713
exclusively for the storage of hazardous waste generated within 23714
the park or recreation area in conjunction with the operation of 23715
the park or recreation area. Division (D)~~(6)~~(2)(h) of this section 23716
does not apply to the facility of any applicant for modification 23717
of a permit unless the modification application proposes to 23718
increase the land area included in the facility or to increase the 23719
quantity of hazardous waste that will be treated, stored, or 23720
disposed of at the facility. 23721

~~In rendering a decision upon an application for a hazardous 23722
waste facility installation and operation permit, the board shall 23723
issue a written order and opinion, which shall include the 23724
specific findings of fact and conclusions of law that support the 23725
board's approval or disapproval of the application. 23726~~

(3) Not later than one hundred eighty days after the end of 23727
the public comment period, the director, without prior hearing, 23728
shall issue or deny the permit in accordance with Chapter 3745. of 23729
the Revised Code. If the ~~board~~ director approves an application 23730
for a hazardous waste facility installation and operation permit, 23731
~~as a part of its written order, it~~ the director shall issue the 23732
permit, upon such terms and conditions as the ~~board~~ director finds 23733
are necessary to ensure the construction and operation of the 23734
hazardous waste facility in accordance with the standards of this 23735
section. 23736

~~(7) Any party adversely affected by an order of the hazardous 23737
waste facility board may appeal the order and decision of the 23738
board to the court of appeals of Franklin county. An appellant 23739
shall file with the board a notice of appeal, which shall 23740~~

~~designate the order appealed from. A copy of the notice also shall
be filed by the appellant with the court, and a copy shall be sent
by certified mail to each party to the adjudication hearing before
the board. Such notices shall be filed and mailed within thirty
days after the date upon which the appellant received notice from
the board by certified mail of the making of the order appealed
from. No appeal bond shall be required to make an appeal
effective.~~

~~The filing of a notice of appeal shall not operate
automatically as a suspension of the order of the board. If it
appears to the court that an unjust hardship to the appellant will
result from the execution of the board's order pending
determination of the appeal, the court may grant a suspension of
the order and fix its terms.~~

~~Within twenty days after receipt of the notice of appeal, the
board shall prepare and file in the court the complete record of
proceedings out of which the appeal arises, including any
transcript of the testimony and any other evidence that has been
submitted before the board. The expense of preparing and
transcribing the record shall be taxed as a part of the costs of
the appeal. The appellant, other than the state or a political
subdivision, an agency of either, or any officer of the appellant
acting in the officer's representative capacity, shall provide
security for costs satisfactory to the court considering the
respective interests of the parties and the public interest. Upon
demand by a party, the board shall furnish, at the cost of the
party requesting it, a copy of the record. If the complete record
is not filed within the time provided for in this section, any
party may apply to the court to have the case docketed, and the
court shall order the record filed.~~

~~In hearing the appeal, the court is confined to the record as
certified to it by the board. The court may grant a request for~~

~~the admission of additional evidence when satisfied that the~~ 23773
~~additional evidence is newly discovered and could not with~~ 23774
~~reasonable diligence have been ascertained prior to the hearing~~ 23775
~~before the board.~~ 23776

~~The court shall affirm the order complained of in the appeal~~ 23777
~~if it finds, upon consideration of the entire record and such~~ 23778
~~additional evidence as the court has admitted, that the order is~~ 23779
~~supported by reliable, probative, and substantial evidence and is~~ 23780
~~in accordance with law. In the absence of such findings, it shall~~ 23781
~~reverse, vacate, or modify the order or make such other ruling as~~ 23782
~~is supported by reliable, probative, and substantial evidence and~~ 23783
~~is in accordance with law. The judgment of the court shall be~~ 23784
~~final and conclusive unless reversed, vacated, or modified on~~ 23785
~~appeal. Such appeals may be taken by any party to the appeal~~ 23786
~~pursuant to the Rules of Practice of the Supreme Court and, to the~~ 23787
~~extent not in conflict with those rules, Chapter 2505. of the~~ 23788
~~Revised Code.~~ 23789

~~(E)(1) Upon receipt of a completed application, the board~~ 23790
~~shall issue a hazardous waste facility installation and operation~~ 23791
~~permit for a hazardous waste facility subject to the requirements~~ 23792
~~of divisions (D)(6) and (7) of this section and all applicable~~ 23793
~~federal regulations if the facility for which the permit is~~ 23794
~~requested satisfies all of the following:~~ 23795

~~(a) Was in operation immediately prior to October 9, 1980;~~ 23796

~~(b) Was in substantial compliance with applicable statutes~~ 23797
~~and rules in effect immediately prior to October 9, 1980, as~~ 23798
~~determined by the director;~~ 23799

~~(c) Demonstrates to the board that its operations after~~ 23800
~~October 9, 1980, comply with applicable performance standards~~ 23801
~~adopted by the director pursuant to division (D) of section~~ 23802
~~3734.12 of the Revised Code;~~ 23803

(d) Submits a completed application for a permit under	23804
division (C) of this section within six months after October 9,	23805
1980.	23806
The board shall act on the application within twelve months	23807
after October 9, 1980.	23808
(2) A hazardous waste facility that was in operation	23809
immediately prior to October 9, 1980, may continue to operate	23810
after that date if it does all of the following:	23811
(a) Complies with performance standards adopted by the	23812
director pursuant to division (D) of section 3734.12 of the	23813
Revised Code;	23814
(b) Submits a completed application for a hazardous waste	23815
installation and operation permit under division (C) of this	23816
section within six months after October 9, 1980;	23817
(c) Obtains the permit under division (D) of this section	23818
within twelve months after October 9, 1980.	23819
(3) No political subdivision of this state shall require any	23820
additional zoning or other approval, consent, permit, certificate,	23821
or condition for the construction or operation of a hazardous	23822
waste facility authorized by a hazardous waste facility	23823
installation and operation permit issued pursuant to this chapter,	23824
nor shall any political subdivision adopt or enforce any law,	23825
ordinance, or rule that in any way alters, impairs, or limits the	23826
authority granted in the permit.	23827
(4) After the issuance of a hazardous waste facility	23828
installation and operation permit by the board, each hazardous	23829
waste facility shall be subject to the rules and supervision of	23830
the director during the period of its operation, closure, and	23831
post closure care, if applicable.	23832
(F) Upon approval of the board in accordance with divisions	23833

~~(D) and (E) of this section, the board~~ The director may issue a 23834
single hazardous waste facility installation and operation permit 23835
to a person who operates two or more adjoining facilities where 23836
hazardous waste is stored, treated, or disposed of if the 23837
application includes detail plans, specifications, and information 23838
on all facilities. For the purposes of this section, "adjoining" 23839
means sharing a common boundary, separated only by a public road, 23840
or in such proximity that the director determines that the 23841
issuance of a single permit will not create a hazard to the public 23842
health or safety or the environment. 23843

(G) No person shall falsify or fail to keep or submit any 23844
plans, specifications, data, reports, records, manifests, or other 23845
information required to be kept or submitted to the director ~~or to~~ 23846
~~the hazardous waste facility board~~ by this chapter or the rules 23847
adopted under it. 23848

(H)(1) Each person who holds an installation and operation 23849
permit issued under this section and who wishes to obtain a permit 23850
renewal shall submit a completed application for an installation 23851
and operation permit renewal and any necessary accompanying 23852
general plans, detail plans, specifications, and such information 23853
as the director may require to the director no later than one 23854
hundred eighty days prior to the expiration date of the existing 23855
permit or upon a later date prior to the expiration of the 23856
existing permit if the permittee can demonstrate good cause for 23857
the late submittal. The director shall consider the application 23858
and accompanying information, inspection reports of the facility, 23859
results of performance tests, a report regarding the facility's 23860
compliance or noncompliance with the terms and conditions of its 23861
permit and rules adopted by the director under this chapter, and 23862
such other information as is relevant to the operation of the 23863
facility and shall issue a draft renewal permit or a notice of 23864
intent to deny the renewal permit. The director, in accordance 23865

with rules adopted under this section or with rules adopted to 23866
implement Chapter 3745. of the Revised Code, shall give public 23867
notice of the application and draft renewal permit or notice of 23868
intent to deny the renewal permit, provide for the opportunity for 23869
public comments within a specified time period, schedule a public 23870
meeting in the county in which the facility is located if 23871
significant interest is shown, and give public notice of the 23872
public meeting. 23873

(2) Within sixty days after the public meeting or close of 23874
the public comment period, the director, without prior hearing, 23875
shall issue or deny the renewal permit in accordance with Chapter 23876
3745. of the Revised Code. The director shall not issue a renewal 23877
permit unless the director determines that the facility under the 23878
existing permit has a history of compliance with this chapter, 23879
rules adopted under it, the existing permit, or orders entered to 23880
enforce such requirements that demonstrates sufficient 23881
reliability, expertise, and competency to operate the facility 23882
henceforth under this chapter, rules adopted under it, and the 23883
renewal permit. If the director approves an application for a 23884
renewal permit, the director shall issue the permit subject to the 23885
payment of the annual permit fee required under division (E) of 23886
section 3734.02 of the Revised Code and upon such terms and 23887
conditions as the director finds are reasonable to ensure that 23888
continued operation, maintenance, closure, and post-closure care 23889
of the hazardous waste facility are in accordance with the rules 23890
adopted under section 3734.12 of the Revised Code. 23891

(3) An installation and operation permit renewal application 23892
submitted to the director that also contains or would constitute 23893
an application for a modification shall be acted upon by the 23894
director in accordance with division (I) of this section in the 23895
same manner as an application for a modification. In approving or 23896
disapproving the renewal portion of a permit renewal application 23897

containing an application for a modification, the director shall 23898
apply the criteria established under division (H)(2) of this 23899
section. 23900

(4) An application for renewal or modification of a permit 23901
that does not contain an application for a modification as 23902
described in divisions (I)(3)(a) to (d) of this section shall not 23903
be subject to division (D)(2) of this section. 23904

(I)(1) As used in this section, "modification" means a change 23905
or alteration to a hazardous waste facility or its operations that 23906
is inconsistent with or not authorized by its existing permit or 23907
authorization to operate. Modifications shall be classified as 23908
Class 1, 2, or 3 modifications in accordance with rules adopted 23909
under division (K) of this section. Modifications classified as 23910
Class 3 modifications, in accordance with rules adopted under that 23911
division, shall be further classified by the director as either 23912
Class 3 modifications that are to be approved or disapproved by 23913
the ~~hazardous waste facility board as described in~~ director under 23914
divisions (I)(3)(a) to (d) of this section or as Class 3 23915
modifications that are to be approved or disapproved by the 23916
director under division (I)(5) of this section. Not later than 23917
thirty days after receiving a request for a modification under 23918
division (I)(4) of this section that is not listed in Appendix I 23919
to 40 C.F.R. 270.42 or in rules adopted under division (K) of this 23920
section, the director shall classify the modification and shall 23921
notify the owner or operator of the facility requesting the 23922
modification of the classification. Notwithstanding any other law 23923
to the contrary, any modification that involves the transfer of a 23924
hazardous waste facility installation and operation permit to a 23925
new owner or operator shall be classified as a Class 3 23926
modification. 23927

(2) Except as provided in section 3734.123 of the Revised 23928
Code, a hazardous waste facility installation and operation permit 23929

may be modified at the request of the director or upon the written request of the permittee only if any of the following applies:

(a) The permittee desires to accomplish alterations, additions, or deletions to the permitted facility or to undertake alterations, additions, deletions, or activities that are inconsistent with or not authorized by the existing permit;

(b) New information or data justify permit conditions in addition to or different from those in the existing permit;

(c) The standards, criteria, or rules upon which the existing permit is based have been changed by new, amended, or rescinded standards, criteria, or rules, or by judicial decision after the existing permit was issued, and the change justifies permit conditions in addition to or different from those in the existing permit;

(d) The permittee proposes to transfer the permit to another person.

(3) The director ~~has jurisdiction to~~ shall approve or disapprove ~~applications~~ an application for ~~Class 1 modifications, Class 2 modifications, and Class 3 modifications not otherwise described in divisions (I)(3)(a) to (d) of this section. The hazardous waste facility board has jurisdiction to approve or disapprove applications for any~~ a modification in accordance with division (D)(2) of this section and rules adopted under division (K) of this section for all of the following categories of Class 3 modifications:

(a) Authority to conduct treatment, storage, or disposal at a site, location, or tract of land that has not been authorized for the proposed category of treatment, storage, or disposal activity by the facility's permit;

(b) Modification or addition of a hazardous waste management unit, as defined in rules adopted under section 3734.12 of the

Revised Code, that results in an increase in a facility's storage 23961
capacity of more than twenty-five per cent over the capacity 23962
authorized by the facility's permit, an increase in a facility's 23963
treatment rate of more than twenty-five per cent over the rate so 23964
authorized, or an increase in a facility's disposal capacity over 23965
the capacity so authorized. The authorized disposal capacity for a 23966
facility shall be calculated from the approved design plans for 23967
the disposal units at that facility. In no case during a five-year 23968
period shall a facility's storage capacity or treatment rate be 23969
modified to increase by more than twenty-five per cent in the 23970
aggregate without ~~board~~ the director's approval in accordance with 23971
division (D)(2) of this section. Notwithstanding any provision of 23972
division (I) of this section to the contrary, a request for 23973
modification of a facility's annual total waste receipt limit 23974
shall be classified and approved or disapproved by the director 23975
under division (I)(5) of this section. 23976

(c) Authority to add any of the following categories of 23977
regulated activities not previously authorized at a facility by 23978
the facility's permit: storage at a facility not previously 23979
authorized to store hazardous waste, treatment at a facility not 23980
previously authorized to treat hazardous waste, or disposal at a 23981
facility not previously authorized to dispose of hazardous waste; 23982
or authority to add a category of hazardous waste management unit 23983
not previously authorized at the facility by the facility's 23984
permit. Notwithstanding any provision of division (I) of this 23985
section to the contrary, a request for authority to add or to 23986
modify an activity or a hazardous waste management unit for the 23987
purposes of performing a corrective action shall be classified and 23988
approved or disapproved by the director under division (I)(5) of 23989
this section. 23990

(d) Authority to treat, store, or dispose of waste types 23991
listed or characterized as reactive or explosive, in rules adopted 23992

under section 3734.12 of the Revised Code, or any acute hazardous 23993
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 23994
previously authorized to treat, store, or dispose of those types 23995
of wastes by the facility's permit unless the requested authority 23996
is limited to wastes that no longer exhibit characteristics 23997
meeting the criteria for listing or characterization as reactive 23998
or explosive wastes, or for listing as acute hazardous waste, but 23999
still are required to carry those waste codes as established in 24000
rules adopted under section 3734.12 of the Revised Code because of 24001
the requirements established in 40 C.F.R. 261(a) and (e), as 24002
amended, that is, the "mixture," "derived-from," or "contained-in" 24003
regulations. 24004

(4) A written request for a modification from the permittee 24005
shall be submitted to the director and shall contain such 24006
information as is necessary to support the request. ~~The director~~ 24007
~~shall transmit to the board requests for Class 3 modifications~~ 24008
~~described in divisions (I)(3)(a) to (d) of this section within two~~ 24009
~~hundred forty days after receiving the requests.~~ Requests for 24010
modifications shall be acted upon by the director ~~or the board, as~~ 24011
~~appropriate,~~ in accordance with this section and rules adopted 24012
under it. 24013

(5) Class 1 modification applications that require prior 24014
approval of the director, as determined in accordance with rules 24015
adopted under division (K) of this section, Class 2 modification 24016
applications, and Class 3 modification applications that are not 24017
described in divisions (I)(3)(a) to (d) of this section shall be 24018
approved or disapproved by the director in accordance with rules 24019
adopted under division (K) of this section. The board of county 24020
commissioners of the county, the board of township trustees of the 24021
township, and the city manager or mayor of the municipal 24022
corporation in which a hazardous waste facility is located shall 24023
receive notification of any application for a modification for 24024

that facility and shall be considered as interested persons with 24025
respect to the director's consideration of the application. 24026

For those modification applications for a transfer of a 24027
permit to a new owner or operator of a facility, the director also 24028
shall determine that, if the transferee owner or operator has been 24029
involved in any prior activity involving the transportation, 24030
treatment, storage, or disposal of hazardous waste, the transferee 24031
owner or operator has a history of compliance with this chapter 24032
and Chapters 3704. and 6111. of the Revised Code and all rules and 24033
standards adopted under them, the "Resource Conservation and 24034
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 24035
amended, and all regulations adopted under it, and similar laws 24036
and rules of another state if the transferee owner or operator 24037
owns or operates a facility in that state, that demonstrates 24038
sufficient reliability, expertise, and competency to operate a 24039
hazardous waste facility under this chapter and Chapters 3704. and 24040
6111. of the Revised Code, all rules and standards adopted under 24041
them, and terms and conditions of a hazardous waste facility 24042
installation and operation permit, given the potential for harm to 24043
the public health and safety and the environment that could result 24044
from the irresponsible operation of the facility. A permit may be 24045
transferred to a new owner or operator only pursuant to a Class 3 24046
permit modification. 24047

As used in division (I)(5) of this section: 24048

(a) "Owner" means the person who owns a majority or 24049
controlling interest in a facility. 24050

(b) "Operator" means the person who is responsible for the 24051
overall operation of a facility. 24052

The director shall approve or disapprove an application for a 24053
Class 1 modification that requires the director's approval within 24054
sixty days after receiving the request for modification. The 24055

director shall approve or disapprove an application for a Class 2 24056
modification within three hundred days after receiving the request 24057
for modification. The director shall approve or disapprove an 24058
application for a Class 3 modification ~~that is not described in~~ 24059
~~divisions (I)(3)(a) to (d) of this section~~ within three hundred 24060
sixty-five days after receiving the request for modification. 24061

(6) The approval or disapproval by the director of a Class 1 24062
modification application is not a final action that is appealable 24063
under Chapter 3745. of the Revised Code. The approval or 24064
disapproval by the director of a Class 2 modification or a Class 3 24065
modification ~~that is not described in divisions (I)(3)(a) to (d)~~ 24066
~~of this section~~ is a final action that is appealable under that 24067
chapter. In approving or disapproving a request for a 24068
modification, the director shall consider all comments pertaining 24069
to the request that are received during the public comment period 24070
and the public meetings. The administrative record for appeal of a 24071
final action by the director in approving or disapproving a 24072
request for a modification shall include all comments received 24073
during the public comment period relating to the request for 24074
modification, written materials submitted at the public meetings 24075
relating to the request, and any other documents related to the 24076
director's action. 24077

(7) ~~The hazardous waste facility board shall approve or~~ 24078
~~disapprove an application for a Class 3 modification transmitted~~ 24079
~~to it under division (I)(4) of this section, or that portion of a~~ 24080
~~permit renewal application that constitutes a Class 3 modification~~ 24081
~~application so transmitted, of a hazardous waste facility~~ 24082
~~installation and operation permit in accordance with division (D)~~ 24083
~~of this section. No other request for a modification shall be~~ 24084
~~subject to division (D)(6) of this section. No aspect of a~~ 24085
~~permitted facility or its operations that is not being modified as~~ 24086
~~described in division (I)(3)(a), (b), (c), or (d) of this section~~ 24087

~~shall be subject to review by the board under division (D) of this section.~~ 24088
24089

~~(8)~~ Notwithstanding any other provision of law to the contrary, a change or alteration to a hazardous waste facility described in division (E)(3)(a) or (b) of section 3734.02 of the Revised Code, or its operations, is a modification for the purposes of this section. An application for a modification at such a facility shall be submitted, classified, and approved or disapproved in accordance with divisions (I)(1) to ~~(7)~~(6) of this section in the same manner as a modification to a hazardous waste facility installation and operation permit. 24090
24091
24092
24093
24094
24095
24096
24097
24098

(J)(1) Except as provided in division (J)(2) of this section, an owner or operator of a hazardous waste facility that is operating in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit either a hazardous waste facility installation and operation permit application for the facility or a modification application, whichever is required under division (J)(1)(a) or (b) of this section, within one hundred eighty days after the director has requested the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal. 24099
24100
24101
24102
24103
24104
24105
24106
24107
24108
24109

(a) If the owner or operator does not have a hazardous waste facility installation and operation permit for any hazardous waste treatment, storage, or disposal activities at the facility, the owner or operator shall submit an application for such a permit to the director for the activities authorized by the permit by rule. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the application for the permit in accordance with the procedures governing the approval or disapproval of permit renewals under division (H) of this section. 24110
24111
24112
24113
24114
24115
24116
24117
24118

(b) If the owner or operator has a hazardous waste facility 24119

installation and operation permit for hazardous waste treatment, 24120
storage, or disposal activities at the facility other than those 24121
authorized by the permit by rule, the owner or operator shall 24122
submit to the director a request for modification in accordance 24123
with division (I) of this section. Notwithstanding any other 24124
provision of law to the contrary, the director shall approve or 24125
disapprove the modification application in accordance with ~~rules~~ 24126
~~adopted under~~ division ~~(K)~~(I)(5) of this section. 24127

(2) The owner or operator of a boiler or industrial furnace 24128
that is conducting thermal treatment activities in accordance with 24129
a permit by rule under rules adopted by the director under 24130
division (E)(3)(b) of section 3734.02 of the Revised Code shall 24131
submit a hazardous waste facility installation and operation 24132
permit application if the owner or operator does not have such a 24133
permit for any hazardous waste treatment, storage, or disposal 24134
activities at the facility or, if the owner or operator has such a 24135
permit for hazardous waste treatment, storage, or disposal 24136
activities at the facility other than thermal treatment activities 24137
authorized by the permit by rule, a modification application to 24138
add those activities authorized by the permit by rule, whichever 24139
is applicable, within one hundred eighty days after the director 24140
has requested the submission of the application or upon a later 24141
date if the owner or operator demonstrates to the director good 24142
cause for the late submittal. The application shall be accompanied 24143
by information necessary to support the request. The ~~hazardous~~ 24144
~~waste facility board~~ director shall approve or disapprove ~~the an~~ 24145
application for a hazardous waste facility installation and 24146
operation permit in accordance with division (D) of this section 24147
and approve or disapprove an application for a modification in 24148
accordance with division (I)(3) of this section, except that the 24149
~~board~~ director shall not disapprove an application for the thermal 24150
treatment activities on the basis of the criteria set forth in 24151
division (D)~~(6)~~(2)(g) or (h) of this section. 24152

(3) As used in division (J) of this section:	24153
(a) "Modification application" means a request for a modification submitted in accordance with division (I) of this section.	24154 24155 24156
(b) "Thermal treatment," "boiler," and "industrial furnace" have the same meanings as in rules adopted under section 3734.12 of the Revised Code.	24157 24158 24159
(K) The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code in order to implement divisions (H) and (I) of this section. Except when in actual conflict with this section, rules governing the classification of and procedures for the modification of hazardous waste facility installation and operation permits shall be substantively and procedurally identical to the regulations governing hazardous waste facility permitting and permit modifications adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended.	24160 24161 24162 24163 24164 24165 24166 24167 24168 24169 24170
Sec. 3734.12. The director of environmental protection shall adopt and may amend, suspend, and rescind rules in accordance with Chapter 119. of the Revised Code, which shall be consistent with and equivalent to the regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except for rules adopted under divisions (D) and (F) of this section governing solid waste facilities and except as otherwise provided in this chapter, doing all of the following:	24171 24172 24173 24174 24175 24176 24177 24178
(A) Adopting the criteria and procedures established under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, for identifying hazardous waste. The director shall prepare, revise when appropriate, and	24179 24180 24181 24182

publish a list of substances or categories of substances 24183
identified to be hazardous using the criteria specified in 40 24184
C.F.R. 261, as amended, which shall be composed of at least those 24185
substances identified as hazardous pursuant to section 3001(B) of 24186
that act. The director shall not list any waste that the 24187
administrator of the United States environmental protection agency 24188
delisted or excluded by an amendment to the federal regulations, 24189
any waste that the administrator declined to list by publishing a 24190
denial of a rulemaking petition or by withdrawal of a proposed 24191
listing in the United States federal register after May 18, 1980, 24192
or any waste oil or polychlorinated biphenyl not listed by the 24193
administrator. 24194

(B) Establishing standards for generators of hazardous waste 24195
necessary to protect human health or safety or the environment in 24196
accordance with this chapter, including, but not limited to, 24197
requirements respecting all of the following: 24198

(1) Record-keeping practices that accurately identify the 24199
quantities of hazardous waste generated, the constituents that are 24200
significant in quantity or in potential harm to human health or 24201
safety or the environment, and the disposition of the waste; 24202

(2) Labeling of containers used for storage, transportation, 24203
or disposal of hazardous waste to identify the waste accurately; 24204

(3) Use of appropriate containers for hazardous waste; 24205

(4) Providing information on the general chemical composition 24206
of hazardous waste to persons transporting, treating, storing, or 24207
disposing of the waste; 24208

(5) A manifest system requiring a manifest consistent with 24209
that prescribed under the "Resource Conservation and Recovery Act 24210
of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended, requiring a 24211
manifest for any hazardous waste transported off the premises 24212
where generated and assuring that all hazardous waste that is 24213

transported off the premises where generated is designated for	24214
treatment, storage, or disposal in facilities for which a permit	24215
has been issued or in the other facilities specified in division	24216
(F) of section 3734.02 of the Revised Code;	24217
(6) Submission of such reports to the director as the	24218
director determines necessary;	24219
(7) Establishment of quality control and testing procedures	24220
that ensure compliance with the rules adopted under this section;	24221
(8) Obtainment of a United States environmental protection	24222
agency identification number.	24223
(C) Establishing standards for transporters of hazardous	24224
waste necessary to protect human health or safety or the	24225
environment in accordance with this chapter, including, but not	24226
limited to, requirements respecting all of the following:	24227
(1) Record-keeping concerning hazardous waste transported,	24228
including source and delivery points;	24229
(2) Submission of such reports to the director as the	24230
director determines necessary;	24231
(3) Transportation of only properly labeled waste;	24232
(4) Compliance with the manifest system required by division	24233
(B) of this section;	24234
(5) Transportation of hazardous waste only to the treatment,	24235
storage, or disposal facility that the shipper designates on the	24236
manifest to be a facility holding a permit or another facility	24237
specified in division (F) of section 3734.02 of the Revised Code;	24238
(6) Contingency plans to minimize unanticipated damage from	24239
transportation of hazardous waste;	24240
(7) Financial responsibility, including, but not limited to,	24241
provisions requiring a financial mechanism to cover the costs of	24242
spill cleanup and liability for sudden accidental occurrences that	24243

result in damage to persons, property, or the environment;	24244
(8) Obtainment of a United States environmental protection agency identification number.	24245 24246
In the case of any hazardous waste that is subject to the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended, the rules shall be consistent with that act and regulations adopted under it.	24247 24248 24249 24250
(D) Establishing performance standards for owners and operators of hazardous waste facilities and owners and operators of solid waste facilities, necessary to protect human health or safety or the environment in accordance with this chapter, including, but not limited to, requirements respecting all of the following:	24251 24252 24253 24254 24255 24256
(1) Maintaining records of all hazardous waste that is treated, stored, or disposed of and of the manner in which the waste was treated, stored, or disposed of or records of all solid wastes transferred or disposed of and of the manner in which the wastes were disposed of;	24257 24258 24259 24260 24261
(2) Submission of such reports to the director as the director determines necessary;	24262 24263
(3) Reporting, monitoring, inspection, and, except with respect to solid waste facilities, compliance with the manifest system referred to in division (B) of this section;	24264 24265 24266
(4) Treatment, storage, or disposal of all hazardous waste received by methods, techniques, and practices approved by the director and disposal or transfer of all solid wastes received by methods, techniques, and practices approved by the director;	24267 24268 24269 24270
(5) Location, design, and construction of hazardous waste facilities and location, design, and construction of solid waste facilities;	24271 24272 24273

(6) Contingency plans for effective action to minimize unanticipated damage from treatment, storage, or disposal of hazardous waste and the disposal or transfer of solid wastes;	24274 24275 24276
(7) Ownership, continuity of operation, training for personnel, and financial responsibility, including the filing of closure and post-closure financial assurance, if applicable. No private entity shall be precluded by reason of these requirements from the ownership or operation of facilities providing hazardous waste treatment, storage, or disposal services if the entity can provide assurances of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage, or disposal of specified hazardous waste.	24277 24278 24279 24280 24281 24282 24283 24284 24285 24286
(8) Closure and post-closure care of a hazardous waste facility where hazardous waste will no longer be treated, stored, or disposed of and of a solid waste facility where solid wastes will no longer be disposed of or transferred;	24287 24288 24289 24290
(9) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;	24291 24292
(10) Obtainment of a United States environmental protection agency identification number for each hazardous waste treatment, storage, or disposal facility;	24293 24294 24295
(11) Trial burns and land treatment demonstrations.	24296
The rules adopted under divisions (D) and (F) of this section pertaining to solid waste facilities do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. Those facilities are subject to and governed by rules adopted under sections 3734.70 to 3734.73 of the Revised Code, as applicable.	24297 24298 24299 24300 24301 24302
(E) Governing the issuance, modification, revocation,	24303

suspension, withdrawal, and denial of installation and operation 24304
permits, draft permits, and transportation certificates of 24305
registration; 24306

(F) Specifying information required to be included in 24307
applications for hazardous waste facility installation and 24308
operation permits and solid waste permits, including, but not 24309
limited to, detail plans, specifications, and information 24310
respecting all of the following: 24311

(1) The composition, quantities, and concentrations of 24312
hazardous waste and solid wastes to be stored, treated, 24313
transported, or disposed of and such other information as the 24314
director may require regarding the method of operation; 24315

(2) The facility to which the waste will be transported or 24316
where it will be stored, treated, or disposed of; 24317

(3) The closure and post-closure care of a facility where 24318
hazardous waste will no longer be treated, stored, or disposed of 24319
and of a solid waste facility where solid wastes will no longer be 24320
disposed of or transferred. 24321

(G) Establishing procedures ensuring that all information 24322
entitled to protection as trade secrets disclosed to the director 24323
or the director's authorized representative is not disclosed 24324
without the consent of the owner, except that such information may 24325
be disclosed, upon request, to authorized representatives of the 24326
United States environmental protection agency, or as required by 24327
law. As used in this section, "trade secrets" means any formula, 24328
plan, pattern, process, tool, mechanism, compound, procedure, 24329
production date, or compilation of information that is not 24330
patented, that is known only to certain individuals within a 24331
commercial concern who are using it to fabricate, produce, or 24332
compound an article, trade, or service having commercial value, 24333
and that gives its user an opportunity to obtain a business 24334

advantage over competitors who do not know or use it. 24335

(H) Prohibiting the disposal of specified hazardous wastes in 24336
this state if the director has determined both of the following: 24337

(1) The potential impacts on human health or safety or the 24338
environment are such that disposal of those wastes should not be 24339
allowed. 24340

(2) A technically feasible and environmentally sound 24341
alternative is reasonably available, either within or outside this 24342
state, for processing, recycling, fixation of, neutralization of, 24343
or other treatment of those wastes. Such reasonable availability 24344
shall not be determined without a consideration of the costs to 24345
the generator of implementing the alternatives. 24346

The director shall adopt, and may amend, suspend, or rescind, 24347
rules to specify hazardous wastes that shall not be disposed of in 24348
accordance with this division. Nothing in this division, either 24349
prior to or after adoption of those rules, shall preclude the 24350
director ~~or the hazardous waste facility board created in section~~ 24351
~~3734.05 of the Revised Code~~ from prohibiting the disposal of 24352
specified hazardous wastes at particular facilities under the 24353
terms or conditions of a permit or ~~preclude the director from~~ 24354
~~prohibiting that disposal~~ by order. 24355

(I)(1)(a) Governing the following that may be more stringent 24356
than the regulations adopted under the "Resource Conservation and 24357
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 24358
amended, when the director determines that such more stringent 24359
rules are reasonable in order to protect human health or safety or 24360
the environment: 24361

(i) Specific wastes that the director determines, because of 24362
their physical, chemical, or biological characteristics, are so 24363
extremely hazardous that the storage, treatment, or disposal of 24364
the wastes in compliance with those regulations would present an 24365

imminent danger to human health or safety or the environment;	24366
(ii) The use of only properly designed, operated, and approved transfer facilities;	24367 24368
(iii) Preventing illegitimate activities relating to the reuse, recycling, or reclaiming of hazardous waste, including record-keeping, reporting, and manifest requirements.	24369 24370 24371
(b) In adopting such more stringent rules, the director shall give consideration to and base the rules on evidence concerning factors including, but not limited to, the following insofar as pertinent:	24372 24373 24374 24375
(i) Geography of the state;	24376
(ii) Geology of the state;	24377
(iii) Hydrogeology of the state;	24378
(iv) Climate of the state;	24379
(v) Engineering and technical feasibility;	24380
(vi) Availability of alternative technologies or methods of storage, treatment, or disposal.	24381 24382
(2) The director may require from generators and transporters of hazardous waste and from owners or operators of treatment, storage, or disposal facilities, the submission of reports in addition to those required under regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, to the extent that such reports contain information that the generator, transporter, or facility owner or operator is required to obtain in order to comply with the regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, or to the extent that such reports are required by the director to meet the requirements of division (B)(7), (D)(9), or	24383 24384 24385 24386 24387 24388 24389 24390 24391 24392 24393 24394 24395

(H) of this section or section 3734.121 of the Revised Code.	24396
(J) Governing the storage, treatment, or disposal of hazardous waste in, and the permitting, design, construction, operation, monitoring, inspection, closure, and post-closure care of, hazardous waste underground injection wells, surface impoundments, waste piles other than those composed of materials removed from the ground as part of coal or mineral extraction or cleaning processes, land treatment facilities, thermal treatment facilities, and landfills that may be more stringent than the regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, whenever the director reasonably determines that federal regulations will not adequately protect the public health or safety or the environment of this state with respect to the subject matter of the more stringent rules. Such more stringent rules shall be developed to achieve a degree of protection, as determined by the director, consistent with the degree of hazard potentially posed by the various wastes or categories of wastes to be treated, stored, or disposed of and the types of facilities at which they are to be treated, stored, or disposed of. In adopting such more stringent rules, the director shall give consideration to and base the rules on evidence concerning factors including, but not limited to, the following insofar as pertinent:	24397 24398 24399 24400 24401 24402 24403 24404 24405 24406 24407 24408 24409 24410 24411 24412 24413 24414 24415 24416 24417 24418
(1) Geography of the state;	24419
(2) Geology of the state;	24420
(3) Hydrogeology of the state;	24421
(4) Climate of the state;	24422
(5) Engineering and technical feasibility;	24423
(6) Availability of alternative technologies or methods of storage, treatment, or disposal.	24424 24425

(K) Establishing performance standards and other requirements necessary to protect public health and the environment from hazards associated with used oil, including, without limitation, standards and requirements respecting all of the following:	24426 24427 24428 24429
(1) Material that is subject to regulation as used oil;	24430
(2) Generation of used oil;	24431
(3) Used oil collection centers and aggregation points;	24432
(4) Transportation of used oil;	24433
(5) Processing and re-refining of used oil;	24434
(6) Burning of used oil;	24435
(7) Marketing of used oil;	24436
(8) Disposal of used oil;	24437
(9) Use of used oil as a dust suppressant.	24438
Sec. 3734.123. (A) As used in this section and section 3734.124 of the Revised Code, "commercial hazardous waste incinerator" means an enclosed device that treats hazardous waste by means of controlled flame combustion and that accepts for treatment hazardous waste that is generated off the premises on which the device is located by any person other than the one who owns or operates the device or one who controls, is controlled by, or is under common control with the person who owns or operates the device. "Commercial hazardous waste incinerator" does not include any "boiler" or "industrial furnace" as those terms are defined in rules adopted under section 3734.12 of the Revised Code.	24439 24440 24441 24442 24443 24444 24445 24446 24447 24448 24449 24450
(B) Not sooner than three years after April 15, 1993, and triennially thereafter, the director of environmental protection shall prepare, publish, and issue as a final action an assessment of commercial hazardous waste incinerator capacity in this state.	24451 24452 24453 24454

However, after the issuance as a final action of a determination 24455
under division (A) of section 3734.124 of the Revised Code that 24456
terminates the restrictions established in division (C) of this 24457
section, the director shall cease preparing, publishing, and 24458
issuing the periodic assessments required under this division. The 24459
assessment shall determine the amount of commercial hazardous 24460
waste incinerator capacity needed to manage the hazardous waste 24461
expected to be generated in this state and imported into this 24462
state for incineration at commercial hazardous waste incinerators 24463
during the next succeeding twenty calendar years. The assessment 24464
shall include at least all of the following: 24465

(1) A determination of the aggregate treatment capacity 24466
authorized at commercial hazardous waste incinerators located in 24467
this state; 24468

(2) A determination of the quantity of hazardous waste 24469
generated in this state that is being treated at commercial 24470
hazardous waste incinerators located in this state and projections 24471
of the quantity of hazardous waste generated in this state that 24472
will be treated at those facilities; 24473

(3) A determination of the quantity of hazardous waste 24474
generated outside this state that is being treated at commercial 24475
hazardous waste incinerators located in this state and projections 24476
of the quantity of hazardous waste generated outside this state 24477
that will be treated at those facilities; 24478

(4) A determination of the quantity of hazardous waste 24479
generated in this state that is being treated at commercial 24480
hazardous waste incinerators located outside this state, and 24481
projections of the quantity of hazardous waste generated in this 24482
state that will be treated at those facilities; 24483

(5) The amount of commercial hazardous waste incinerator 24484
capacity that the director reasonably anticipates will be needed 24485

during the first three years of the planning period to treat 24486
hazardous waste generated from the remediation of sites in this 24487
state that are on the national priority list required under the 24488
"Comprehensive Environmental Response, Compensation, and Liability 24489
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; as a 24490
result of corrective actions implemented under the "Resource 24491
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 24492
6921, as amended; and as a result of clean-up activities conducted 24493
at sites listed on the master sites list prepared by the 24494
environmental protection agency; 24495

(6) Based upon available data, provided that the data are 24496
reliable and are compatible with the data base of the 24497
environmental protection agency, an identification of any 24498
hazardous waste first listed as a hazardous waste in regulations 24499
adopted under the "Resource Conservation and Recovery Act of 24500
1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, on or after 24501
April 15, 1993, and of any hazardous waste that has been proposed 24502
for such listing by publication of a notice in the federal 24503
register on or before December 1 of the year immediately preceding 24504
the triennial assessment; 24505

(7) An analysis of other factors that may result in capacity 24506
changes over the period addressed by the assessment. 24507

(C) Except as otherwise provided in section 3734.124 of the 24508
Revised Code, none of the following shall occur on or after April 24509
15, 1993: 24510

(1) The director shall not do any of the following: 24511

(a) ~~Pursuant to division (D)(3) or (I)(4) of section 3734.05~~ 24512
~~of the Revised Code, as applicable, transmit to the hazardous~~ 24513
~~waste facility board created in that section any application for a~~ 24514
Issue any hazardous waste facility installation and operation 24515
permit under division (D) of section 3745.05 of the Revised Code 24516

for the establishment of a new commercial hazardous waste 24517
incinerator, or ~~any request for a modification, as described in~~ 24518
~~divisions (I)(3)(a) to (d) of section 3734.05 of the Revised Code,~~ 24519
~~of an existing commercial hazardous waste incinerator to increase~~ 24520
~~either the treatment capacity of the incinerator or the quantity~~ 24521
~~of hazardous waste authorized to be treated by it, for which the~~ 24522
~~staff of the environmental protection agency has made a~~ 24523
~~preliminary determination as to whether the application or request~~ 24524
~~appears to comply with the rules and standards set forth under~~ 24525
~~divisions (D), (I), and (J) of section 3734.12 of the Revised~~ 24526
~~Code;~~ 24527

~~(b)~~ Issue issue any modified hazardous waste facility 24528
installation and operation permit under division (I)~~(5)~~ of that 24529
~~section 3734.05 of the Revised Code~~ that would authorize an 24530
increase in either the treatment capacity of a commercial 24531
hazardous waste incinerator or the quantity of hazardous waste 24532
authorized to be treated by it; 24533

~~(e)~~(b) Issue any permit pursuant to rules adopted under 24534
division (F) of section 3704.03 of the Revised Code, division (J) 24535
of section 6111.03 of the Revised Code, or the solid waste 24536
provisions of this chapter and rules adopted under those 24537
provisions, that is necessary for the establishment, modification, 24538
or operation of any appurtenant facility or equipment that is 24539
necessary for the operation of a new commercial hazardous waste 24540
incinerator, or the modification of such an existing incinerator 24541
to increase either the treatment capacity of the incinerator or 24542
the quantity of hazardous waste that is authorized to be treated 24543
by it. Upon determining that an application for any permit 24544
pertains to the establishment, modification, or operation of any 24545
appurtenant facility or equipment, the director shall cease 24546
reviewing the application and return the application and 24547
accompanying materials to the applicant along with a written 24548

notice that division (C)(1)~~(e)~~(b) of this section precludes the 24549
director from reviewing and acting upon the application. 24550

~~(d)~~(c) Issue any exemption order under division (G) of 24551
section 3734.02 of the Revised Code exempting the establishment of 24552
a new commercial hazardous waste incinerator; the modification of 24553
an existing facility to increase either the treatment capacity of 24554
the incinerator or the quantity of hazardous waste that is 24555
authorized to be treated by it; or the establishment, 24556
modification, or operation of any facility or equipment 24557
appurtenant to a new or modified commercial hazardous waste 24558
incinerator, from divisions (C)(1)(a)~~7~~ or (b)~~7~~ ~~or~~ (e) or (C)(2) ~~or~~ 24559
~~(3)~~ of this section. 24560

(2) ~~The staff of the environmental protection agency shall~~ 24561
~~not take any action under division (D)(3) of section 3734.05 of~~ 24562
~~the Revised Code to review, or to make a preliminary determination~~ 24563
~~of compliance with the rules and standards set forth in divisions~~ 24564
~~(D), (I), and (J) of section 3734.12 of the Revised Code~~ 24565
~~regarding, any~~ If the director determines that an application for 24566
a hazardous waste facility installation and operation permit 24567
submitted under division (D)~~(3)~~ of section 3734.05 of the Revised 24568
Code ~~that~~ pertains to the establishment of a new commercial 24569
hazardous waste incinerator, or ~~any~~ a request for a modification 24570
of an existing incinerator submitted under division (I)~~(4)~~ of that 24571
section ~~to modify an existing incinerator~~ pertains to an increase 24572
of either the treatment capacity of the incinerator or the 24573
quantity of hazardous waste that is authorized to be treated by 24574
it. ~~Upon determining that an application or request submitted~~ 24575
~~under those divisions pertains to the establishment of a new~~ 24576
~~commercial hazardous waste incinerator or the modification of an~~ 24577
~~existing incinerator, the staff of the agency~~ director shall cease 24578
reviewing the application or request and shall return it and the 24579
accompanying materials to the applicant along with a written 24580

notice that division (C)(2) of this section precludes the staff 24581
from reviewing or making any preliminary determination of 24582
~~compliance regarding~~ review of the application or request. 24583

~~(3) The hazardous waste facility board created in section 24584
3734.05 of the Revised Code shall not do either of the following:~~ 24585

~~(a) Approve any application for a hazardous waste facility 24586
installation and operation permit, or issue any permit, under 24587
divisions (D) and (F) of section 3734.05 of the Revised Code that 24588
authorizes the establishment and operation of a new commercial 24589
hazardous waste incinerator;~~ 24590

~~(b) Approve any request to modify an existing commercial 24591
hazardous waste incinerator under divisions (D) and (I)(7) of 24592
section 3734.05 of the Revised Code that authorizes an increase in 24593
either the treatment capacity of the incinerator or the quantity 24594
of hazardous waste authorized to be treated by it.~~ 24595

Sec. 3734.124. (A) Promptly after issuing a periodic 24596
assessment under division (B) of section 3734.123 of the Revised 24597
Code, the director of environmental protection shall make a 24598
determination as to whether it is necessary or appropriate to 24599
continue the restrictions established in division (C) of section 24600
3734.123 of the Revised Code during the period of time between the 24601
issuance of the assessment and the issuance of the next succeeding 24602
periodic assessment or as to whether it is necessary or 24603
appropriate to terminate the restrictions. The director shall 24604
consider all of the following when making a determination under 24605
this division: 24606

(1) The findings of the assessment; 24607

(2) The findings of an evaluation conducted by the director, 24608
in consultation with the chairperson of the state emergency 24609
response commission created in section 3750.02 of the Revised 24610

Code, regarding the capability of this state to respond to the types and frequencies of releases of hazardous waste that are likely to occur at commercial hazardous waste incinerators; 24611
24612
24613

(3) The effect that a new commercial hazardous waste incinerator may have on ambient air quality in this state; 24614
24615

(4) The findings of a review of relevant information regarding the impacts of commercial hazardous waste incinerators on human health and the environment, such as health studies and risk assessments; 24616
24617
24618
24619

(5) The findings of a review of the operational records of commercial hazardous waste incinerators operating in this state; 24620
24621

(6) The findings of any review of relevant information concerning the following: 24622
24623

(a) The cost of and access to commercial hazardous waste incinerator capacity; 24624
24625

(b) The length of time and the regulatory review process necessary to fully permit a commercial hazardous waste incinerator; 24626
24627
24628

(c) Access to long-term capital investment to fund the building of a commercial hazardous waste incinerator in this state; 24629
24630
24631

(d) Efforts by generators of hazardous waste accepted by commercial hazardous waste incinerators to reduce the amount of hazardous waste that they generate. 24632
24633
24634

(7) Regulatory and legislative concerns that may include, without limitation, the provisions of paragraphs (a) and (b) of 40 C.F.R. 271.4, as they existed on April 15, 1993. 24635
24636
24637

If, after considering all of the information and concerns that the director is required to consider under divisions (A)(1) to (7) of this section, the director determines that it is 24638
24639
24640

necessary or appropriate to terminate the restrictions established 24641
in division (C) of section 3734.123 of the Revised Code in order 24642
to protect human health or safety or the environment, the director 24643
shall issue as a final action a written determination to that 24644
effect. If the director determines that it is necessary or 24645
appropriate for those purposes to continue the restrictions until 24646
the issuance of the next succeeding periodic assessment under 24647
division (B) of section 3734.123 of the Revised Code, the director 24648
shall issue as a final action a written determination to that 24649
effect. After the issuance as a final action of a determination 24650
under this division that it is necessary or appropriate to 24651
terminate the restrictions established in division (C) of section 24652
3734.123 of the Revised Code, the director shall cease making the 24653
periodic determinations required under this division. 24654

(B) Beginning three years after April 15, 1993, but only on 24655
and after the date of issuance as final actions of an assessment 24656
under division (B) of section 3734.123 of the Revised Code and a 24657
determination under division (A) of this section that it is 24658
necessary or appropriate to terminate the restrictions established 24659
in division (C) of section 3734.123 of the Revised Code, ~~any of~~ 24660
~~the following may occur:~~ 24661

~~(1) The the director may do any of the following:~~ 24662

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 24663
of the Revised Code, as applicable, transmit to the hazardous 24664
waste facility board created in that section an application for a 24665
hazardous waste facility installation and operation permit that 24666
pertains to the establishment of a new commercial hazardous waste 24667
incinerator, or a request for a modification, as described in 24668
divisions (I)(3)(a) to (d) of section 3734.05 of the Revised Code, 24669
of a commercial hazardous waste incinerator to increase either the 24670
treatment capacity of the incinerator or the quantity of hazardous 24671
waste authorized to be treated by it, for which the staff of the 24672~~

~~environmental protection agency has made a preliminary 24673
determination as to whether the application or request appears to 24674
comply with the rules and standards set forth under divisions (D), 24675
(I), and (K) of section 3734.05 of the Revised Code; 24676~~

~~(b) To the extent otherwise authorized in division (I)(5) of 24677
section 3734.05 of the Revised Code, issue a modified hazardous 24678
waste facility installation and operation permit under that 24679
division that authorizes an increase in either the treatment 24680
capacity of a commercial hazardous waste incinerator or the 24681
quantity of hazardous waste authorized to be treated by it; 24682~~

~~(e)(1) To the extent otherwise authorized thereunder, issue 24683
any permit pursuant to rules adopted under division (F) of section 24684
3704.03 of the Revised Code, division (J) of section 6111.03 of 24685
the Revised Code, or the solid waste provisions of this chapter 24686
and rules adopted under those provisions, that is necessary for 24687
the establishment, modification, or operation of any appurtenant 24688
facility or equipment that is necessary for the operation of a new 24689
commercial hazardous waste incinerator, or for the modification of 24690
an existing incinerator to increase either the treatment capacity 24691
of the incinerator or the quantity of hazardous waste authorized 24692
to be treated by it; 24693~~

~~(d)(2) To the extent otherwise authorized in division (G) of 24694
section 3734.02 of the Revised Code, issue an order exempting the 24695
establishment of a new commercial hazardous waste incinerator; the 24696
modification of an existing incinerator to increase either the 24697
treatment capacity of the incinerator or the quantity of hazardous 24698
waste that is authorized to be treated by it; or the 24699
establishment, modification, or operation of any facility or 24700
equipment appurtenant to a new or modified commercial hazardous 24701
waste incinerator, from division (C)(1)(a), or (b), ~~or (e)~~ or 24702
(C)(2) ~~or (3)~~ of section 3734.123 of the Revised Code; 24703~~

~~(2) The staff of the environmental protection agency may do 24704~~

~~both of the following:~~ 24705

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 of the Revised Code, review an application for a hazardous waste facility installation and operation permit to establish a new commercial hazardous waste incinerator or a request to modify an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it;~~ 24706
24707
24708
24709
24710
24711
24712

~~(b) Pursuant to division (D)(3) or (I)(4) of section 3734.05 of the Revised Code, make a preliminary determination as to whether an application for a hazardous waste facility permit to install and operate a new commercial hazardous waste incinerator or a request to modify an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it appears to comply with the rules and performance standards set forth under divisions (D), (I), and (J) of section 3734.12 of the Revised Code.~~ 24713
24714
24715
24716
24717
24718
24719
24720
24721

~~(3) The hazardous waste facility board may do both of the following:~~ 24722
24723

~~(a) Approve or disapprove an application for a hazardous waste facility installation and operation permit, and issue a permit, under ~~divisions~~ division (D) and ~~(F)~~ of section 3734.05 of the Revised Code for a new commercial hazardous waste incinerator;~~ 24724
24725
24726
24727

~~(b) Under divisions (D) and (I)(7) of that section, approve~~ 24728
(4) Approve or disapprove under division (I) of section 3734.05 of the Revised Code a request to modify the permit of an existing 24729
commercial hazardous waste incinerator to increase either the 24730
treatment capacity of the incinerator or the quantity of hazardous 24731
waste authorized to be treated by it. 24732
24733

Sec. 3734.18. (A) There are hereby levied fees on the 24734

disposal of hazardous waste to be collected according to the 24735
following schedule at each disposal facility to which ~~the~~ 24736
~~hazardous waste facility board has issued~~ a hazardous waste 24737
facility installation and operation permit or ~~the director of~~ 24738
~~environmental protection has issued a renewal of a permit pursuant~~ 24739
~~to section 3734.05 of the Revised Code has been issued under this~~ 24740
chapter: 24741

(1) For disposal facilities that are off-site facilities as 24742
defined in division (E) of section 3734.02 of the Revised Code, 24743
fees shall be levied at the rate of four dollars and fifty cents 24744
per ton for hazardous waste disposed of by deep well injection and 24745
nine dollars per ton for hazardous waste disposed of by land 24746
application or landfilling. The owner or operator of the facility, 24747
as a trustee for the state, shall collect the fees and forward 24748
them to the director in accordance with rules adopted under this 24749
section. 24750

(2) For disposal facilities that are on-site or satellite 24751
facilities, as defined in division (E) of section 3734.02 of the 24752
Revised Code, fees shall be levied at the rate of two dollars per 24753
ton for hazardous waste disposed of by deep well injection and 24754
four dollars per ton for hazardous waste disposed of by land 24755
application or landfilling. The maximum annual disposal fee for an 24756
on-site disposal facility that disposes of one hundred thousand 24757
tons or less of hazardous waste in a year is twenty-five thousand 24758
dollars. The maximum annual disposal fee for an on-site facility 24759
that disposes of more than one hundred thousand tons of hazardous 24760
waste in a year by land application or landfilling is fifty 24761
thousand dollars, and the maximum annual fee for an on-site 24762
facility that disposes of more than one hundred thousand tons of 24763
hazardous waste in a year by deep well injection is one hundred 24764
thousand dollars. The maximum annual disposal fee for a satellite 24765
facility that disposes of one hundred thousand tons or less of 24766

hazardous waste in a year is thirty-seven thousand five hundred 24767
dollars, and the maximum annual disposal fee for a satellite 24768
facility that disposes of more than one hundred thousand tons of 24769
hazardous waste in a year is seventy-five thousand dollars, except 24770
that a satellite facility defined under division (E)(3)(b) of 24771
section 3734.02 of the Revised Code that receives hazardous waste 24772
from a single generation site is subject to the same maximum 24773
annual disposal fees as an on-site disposal facility. The owner or 24774
operator shall pay the fee to the director each year upon the 24775
anniversary of the date of issuance of the owner's or operator's 24776
installation and operation permit during the term of that permit 24777
and any renewal permit issued under division (H) of section 24778
3734.05 of the Revised Code. If payment is late, the owner or 24779
operator shall pay an additional ten per cent of the amount of the 24780
fee for each month that it is late. 24781

(B) There are hereby levied fees at the rate of two dollars 24782
per ton on hazardous waste that is treated at treatment facilities 24783
that are not on-site or satellite facilities, as defined in 24784
division (E) of section 3734.02 of the Revised Code, to which ~~the~~ 24785
~~hazardous waste facility board has issued~~ a hazardous waste 24786
facility installation and operation permit or ~~the director~~ renewal 24787
of a permit has been issued ~~a renewal permit under this chapter,~~ 24788
or that are not subject to the hazardous waste facility 24789
installation and operation permit requirements under rules adopted 24790
by the director. 24791

(C) There are hereby levied additional fees on the treatment 24792
and disposal of hazardous waste at the rate of ten per cent of the 24793
applicable fees prescribed in division (A) or (B) of this section 24794
for the purposes of paying the costs of municipal corporations and 24795
counties for conducting reviews of applications for hazardous 24796
waste facility installation and operation permits for proposed new 24797
or modified hazardous waste landfills within their boundaries, 24798

emergency response actions with respect to releases of hazardous waste from hazardous waste facilities within their boundaries, monitoring the operation of such hazardous waste facilities, and local waste management planning programs. The owner or operator of a facility located within a municipal corporation, as a trustee for the municipal corporation, shall collect the fees levied by this division and forward them to the treasurer of the municipal corporation or such officer as, by virtue of the charter, has the duties of the treasurer in accordance with rules adopted under this section. The owner or operator of a facility located in an unincorporated area, as a trustee of the county in which the facility is located, shall collect the fees levied by this division and forward them to the county treasurer of that county in accordance with rules adopted under this section. The owner or operator shall pay the fees levied by this division to the treasurer or such other officer of the municipal corporation or to the county treasurer each year upon the anniversary of the date of issuance of the owner's or operator's installation and operation permit during the term of that permit and any renewal permit issued under division (H) of section 3734.05 of the Revised Code. If payment is late, the owner or operator shall pay an additional ten per cent of the amount of the fee for each month that the payment is late.

Moneys received by a municipal corporation under this division shall be paid into a special fund of the municipal corporation and used exclusively for the purposes of conducting reviews of applications for hazardous waste facility installation and operation permits for new or modified hazardous waste landfills located or proposed within the municipal corporation, conducting emergency response actions with respect to releases of hazardous waste from facilities located within the municipal corporation, monitoring operation of such hazardous waste facilities, and conducting waste management planning programs

within the municipal corporation through employees of the 24832
municipal corporation or pursuant to contracts entered into with 24833
persons or political subdivisions. Moneys received by a board of 24834
county commissioners under this division shall be paid into a 24835
special fund of the county and used exclusively for those purposes 24836
within the unincorporated area of the county through employees of 24837
the county or pursuant to contracts entered into with persons or 24838
political subdivisions. 24839

(D) As used in this section, "treatment" or "treated" does 24840
not include any method, technique, or process designed to recover 24841
energy or material resources from the waste or to render the waste 24842
amenable for recovery. The fees levied by division (B) of this 24843
section do not apply to hazardous waste that is treated and 24844
disposed of on the same premises or by the same person. 24845

(E) The director, by rules adopted in accordance with 24846
Chapters 119. and 3745. of the Revised Code, shall prescribe any 24847
dates not specified in this section and procedures for collecting 24848
and forwarding the fees prescribed by this section and may 24849
prescribe other requirements that are necessary to carry out this 24850
section. 24851

The director shall deposit the moneys collected under 24852
divisions (A) and (B) of this section into one or more minority 24853
banks, as "minority bank" is defined in division (F)(1) of section 24854
135.04 of the Revised Code, to the credit of the hazardous waste 24855
facility management fund, which is hereby created in the state 24856
treasury, except that the director shall deposit to the credit of 24857
the underground injection control fund created in section 6111.046 24858
of the Revised Code moneys in excess of fifty thousand dollars 24859
that are collected during a fiscal year under division (A)(2) of 24860
this section from the fee levied on the disposal of hazardous 24861
waste by deep well injection at an on-site disposal facility that 24862
disposes of more than one hundred thousand tons of hazardous waste 24863

in a year. 24864

The environmental protection agency ~~and the hazardous waste~~ 24865
~~facility board~~ may use moneys in the hazardous waste facility 24866
management fund for administration of the hazardous waste program 24867
established under this chapter and, in accordance with this 24868
section, may request approval by the controlling board for that 24869
use on an annual basis. In addition, the agency may use and pledge 24870
moneys in that fund for repayment of and for interest on any loans 24871
made by the Ohio water development authority to the agency for the 24872
hazardous waste program established under this chapter without the 24873
necessity of requesting approval by the controlling board, which 24874
use and pledge shall have priority over any other use of the 24875
moneys in the fund. 24876

Until September 28, 1996, the director also may use moneys in 24877
the fund to pay the start-up costs of administering Chapter 3746. 24878
of the Revised Code. 24879

If moneys in the fund that the agency uses in accordance with 24880
this chapter are reimbursed by grants or other moneys from the 24881
United States government, the grants or other moneys shall be 24882
placed in the fund. 24883

Before the agency makes any expenditure from the fund other 24884
than for repayment of and interest on any loan made by the Ohio 24885
water development authority to the agency in accordance with this 24886
section, the controlling board shall approve the expenditure. 24887

Sec. 3734.28. All moneys collected under sections 3734.122, 24888
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 24889
Code and natural resource damages collected by the state under the 24890
"Comprehensive Environmental Response, Compensation, and Liability 24891
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall 24892
be paid into the state treasury to the credit of the hazardous 24893
waste clean-up fund, which is hereby created. The environmental 24894

protection agency shall use the moneys in the fund for the 24895
purposes set forth in division (D) of section 3734.122, sections 24896
3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, 24897
and, through ~~June 30, 2003~~ October 15, 2005, divisions (A)(1) and 24898
(2) of section 3745.12 and Chapter 3746. of the Revised Code, 24899
including any related enforcement expenses. In addition, the 24900
agency shall use the moneys in the fund to pay the state's 24901
long-term operation and maintenance costs or matching share for 24902
actions taken under the "Comprehensive Environmental Response, 24903
Compensation, and Liability Act of 1980," as amended. If those 24904
moneys are reimbursed by grants or other moneys from the United 24905
States or any other person, the moneys shall be placed in the fund 24906
and not in the general revenue fund. 24907

Sec. 3734.42. (A)(1) Except as otherwise provided in division 24908
(E)(2) of this section, every applicant for a permit other than a 24909
permit modification or renewal shall file a disclosure statement, 24910
on a form developed by the attorney general, with the director of 24911
environmental protection and the attorney general at the same time 24912
the applicant files an application for a permit other than a 24913
permit modification or renewal with the director. 24914

(2) Any individual required to be listed in the disclosure 24916
statement shall be fingerprinted for identification and 24917
investigation purposes in accordance with procedures established 24918
by the attorney general. An individual required to be 24919
fingerprinted under this section shall not be required to be 24920
fingerprinted more than once under this section. 24921

(3) The attorney general, within one hundred eighty days 24922
after receipt of the disclosure statement from an applicant for a 24923
permit, shall prepare and transmit to the director an 24924
investigative report on the applicant, based in part upon the 24925

disclosure statement, except that this deadline may be extended 24926
for a reasonable period of time, for good cause, by the director 24927
or the attorney general. In preparing this report, the attorney 24928
general may request and receive criminal history information from 24929
the federal bureau of investigation and any other law enforcement 24930
agency or organization. The attorney general may provide such 24931
confidentiality regarding the information received from a law 24932
enforcement agency as may be imposed by that agency as a condition 24933
for providing that information to the attorney general. 24934

(4) The review of the application by the director ~~or the~~ 24935
~~hazardous waste facility board~~ shall include a review of the 24936
disclosure statement and investigative report. 24937

(B) All applicants and permittees shall provide any 24938
assistance or information requested by the director or the 24939
attorney general and shall cooperate in any inquiry or 24940
investigation conducted by the attorney general and any inquiry, 24941
investigation, or hearing conducted by the director ~~or the~~ 24942
~~hazardous waste facility board~~. If, upon issuance of a formal 24943
request to answer any inquiry or produce information, evidence, or 24944
testimony, any applicant or permittee, any officer, director, or 24945
partner of any business concern, or any key employee of the 24946
applicant or permittee refuses to comply, the permit of the 24947
applicant or permittee may be denied or revoked by the director ~~or~~ 24948
~~the board~~. 24949

(C) The attorney general may charge and collect such fees 24950
from applicants and permittees as are necessary to cover the costs 24951
of administering and enforcing the investigative procedures 24952
authorized in sections 3734.41 to 3734.47 of the Revised Code. The 24953
attorney general shall transmit moneys collected under this 24954
division to the treasurer of state to be credited to the solid and 24955
hazardous waste background investigations fund, which is hereby 24956
created in the state treasury. Moneys in the fund shall be used 24957

solely for paying the attorney general's costs of administering 24958
and enforcing the investigative procedures authorized in sections 24959
3734.41 to 3734.47 of the Revised Code. 24960

(D) Annually on the anniversary date of the submission to the 24961
director by the attorney general of the investigative report for a 24962
specific facility, or annually on another date assigned by the 24963
attorney general, the appropriate applicant, permittee, or 24964
prospective owner shall submit to the attorney general, on a form 24965
provided by the attorney general, any and all information required 24966
to be included in a disclosure statement that has changed or been 24967
added in the immediately preceding year. If, in the immediately 24968
preceding year, there have been no changes in or additions to the 24969
information required to be included in a disclosure statement, the 24970
appropriate applicant, permittee, or prospective owner shall 24971
submit to the attorney general an affidavit stating that there 24972
have been no changes in or additions to that information during 24973
that time period. 24974

Notwithstanding the requirement for an annual submission of 24975
information, the following information shall be submitted within 24976
the periods specified: 24977

(1) Information required to be included in the disclosure 24978
statement for any new officer, director, partner, or key employee, 24979
to be submitted within ninety days from the addition of the 24980
officer, director, partner, or key employee; 24981

(2) Information required to be included in a disclosure 24982
statement for any new business concern, to be submitted within 24983
ninety days from the addition of the new business concern; 24984

(3) Information regarding any new criminal conviction, to be 24985
submitted within ninety days from the judgment entry of 24986
conviction. 24987

The failure to provide such information may constitute the 24988

basis for the revocation or denial of renewal of any permit or 24989
license issued in accordance with this chapter, provided that 24990
prior to any such denial or revocation, the director shall notify 24991
the applicant or permittee of the director's intention to do so 24992
and give the applicant or permittee fourteen days from the date of 24993
the notice to explain why the information was not provided. The 24994
director shall consider this information when determining whether 24995
to revoke or deny the permit or license. 24996

Nothing in this division affects the rights of the director 24997
or the attorney general granted under sections 3734.40 to 3734.47 24998
of the Revised Code to request information from a person at any 24999
other time. 25000

(E)(1) Except as otherwise provided in division (E)(2) of 25001
this section, every permittee who is not otherwise required to 25002
file a disclosure statement shall file a disclosure statement 25003
within five years after June 24, 1988, pursuant to a schedule for 25004
submissions of disclosure statements developed by the attorney 25005
general. The schedule shall provide all permittees and holders of 25006
a license with at least one hundred eighty days' notice prior to 25007
the date upon which the statement is to be submitted. All other 25008
terms of the schedule shall be established at the discretion of 25009
the attorney general and shall not be subject to judicial review. 25010

(2) An applicant for a permit for an off-site solid waste 25011
facility that is a scrap tire storage, monocell, monofill, or 25012
recovery facility issued under section 3734.76, 3734.77, or 25013
3734.78 of the Revised Code, as applicable, shall file a 25014
disclosure statement within five years after October 29, 1993, 25015
pursuant to a schedule for submissions of disclosure statements 25016
developed by the attorney general. The schedule shall provide all 25017
such applicants with at least one hundred eighty days' notice 25018
prior to the date upon which the statement shall be submitted. All 25019
other terms of the schedule shall be established at the discretion 25020

of the attorney general and shall not be subject to judicial review. 25021
25022

Beginning five years after October 29, 1993, an applicant for such a permit shall file a disclosure statement in accordance with division (A)(1) of this section. 25023
25024
25025

(3) When a permittee submits a disclosure statement at the time it submits an application for a renewal or modification of its permit, the attorney general shall remove the permittee from the submission schedule established pursuant to division (E)(1) or (2) of this section. 25026
25027
25028
25029
25030

(4) After receiving a disclosure statement under division (E)(1) or (2) of this section, the attorney general shall prepare an investigative report and transmit it to the director. The director shall review the disclosure statement and investigative report to determine whether the statement or report contains information that if submitted with a permit application would require a denial of the permit pursuant to section 3734.44 of the Revised Code. If the director determines that the statement or report contains such information, the director may revoke any previously issued permit pursuant to section 3734.45 of the Revised Code, or the director shall deny any application for a renewal of a permit or license. When the renewal of the license is being performed by a board of health, the director shall instruct the board of health about those circumstances under which the renewal is required to be denied by this section. 25031
25032
25033
25034
25035
25036
25037
25038
25039
25040
25041
25042
25043
25044
25045

(F)(1) Whenever there is a change in ownership of any off-site solid waste facility, including incinerators, any transfer facility, any off-site infectious waste treatment facility, or any off-site hazardous waste treatment, storage, or disposal facility, the prospective owner shall file a disclosure statement with the attorney general and the director at least one hundred eighty days prior to the proposed change in ownership. 25046
25047
25048
25049
25050
25051
25052

Upon receipt of the disclosure statement, the attorney general 25053
shall prepare an investigative report and transmit it to the 25054
director. The director shall review the disclosure statement and 25055
investigative report to determine whether the statement or report 25056
contains information that if submitted with a permit application 25057
would require a denial of the permit pursuant to section 3734.44 25058
of the Revised Code. If the director determines that the statement 25059
or report contains such information, the director shall disapprove 25060
the change in ownership. 25061

(2) If the parties to a change in ownership decide to proceed 25062
with the change prior to the action of the director on the 25063
disclosure statement and investigative report, the parties shall 25064
include in all contracts or other documents reflecting the change 25065
in ownership language expressly making the change in ownership 25066
subject to the approval of the director and expressly negating the 25067
change if it is disapproved by the director pursuant to division 25068
(F)(1) of this section. 25069

(3) As used in this section, "change in ownership" includes 25070
any change in the names, other than those of officers, directors, 25071
partners, or key employees, contained in the disclosure statement. 25072

Sec. 3734.44. Notwithstanding the provisions of any law to 25073
the contrary, no permit or license shall be issued or renewed by 25074
the director of environmental protection, ~~the hazardous waste~~ 25075
~~facility board,~~ or a board of health: 25076

(A) Unless the director, ~~the hazardous waste facility board,~~ 25077
or the board of health finds that the applicant, in any prior 25078
performance record in the transportation, transfer, treatment, 25079
storage, or disposal of solid wastes, infectious wastes, or 25080
hazardous waste, has exhibited sufficient reliability, expertise, 25081
and competency to operate the solid waste, infectious waste, or 25082
hazardous waste facility, given the potential for harm to human 25083

health and the environment that could result from the 25084
irresponsible operation of the facility, or, if no prior record 25085
exists, that the applicant is likely to exhibit that reliability, 25086
expertise, and competence; 25087

(B) If any individual or business concern required to be 25088
listed in the disclosure statement or shown to have a beneficial 25089
interest in the business of the applicant or the permittee, other 25090
than an equity interest or debt liability, by the investigation 25091
thereof, has been convicted of any of the following crimes under 25092
the laws of this state or equivalent laws of any other 25093
jurisdiction: 25094

(1) Murder; 25095

(2) Kidnapping; 25096

(3) Gambling; 25097

(4) Robbery; 25098

(5) Bribery; 25099

(6) Extortion; 25100

(7) Criminal usury; 25101

(8) Arson; 25102

(9) Burglary; 25103

(10) Theft and related crimes; 25104

(11) Forgery and fraudulent practices; 25105

(12) Fraud in the offering, sale, or purchase of securities; 25106

(13) Alteration of motor vehicle identification numbers; 25107

(14) Unlawful manufacture, purchase, use, or transfer of 25108
firearms; 25109

(15) Unlawful possession or use of destructive devices or 25110
explosives; 25111

(16) Violation of section 2925.03, 2925.04, 2925.05, 2925.06, 25112
2925.11, 2925.32, or 2925.37 or Chapter 3719. of the Revised Code, 25113
unless the violation is for possession of less than one hundred 25114
grams of marihuana, less than five grams of marihuana resin or 25115
extraction or preparation of marihuana resin, or less than one 25116
gram of marihuana resin in a liquid concentrate, liquid extract, 25117
or liquid distillate form; 25118

(17) Engaging in a pattern of corrupt activity under section 25119
2923.32 of the Revised Code; 25120

(18) Violation of criminal provisions of Chapter 1331. of the 25121
Revised Code; 25122

(19) Any violation of the criminal provisions of any federal 25123
or state environmental protection laws, rules, or regulations that 25124
is committed knowingly or recklessly, as defined in section 25125
2901.22 of the Revised Code; 25126

(20) Violation of Chapter 2909. of the Revised Code; 25127

(21) Any offense specified in Chapter 2921. of the Revised 25128
Code. 25129

(C) Notwithstanding division (B) of this section, no 25130
applicant shall be denied the issuance or renewal of a permit or 25131
license on the basis of a conviction of any individual or business 25132
concern required to be listed in the disclosure statement or shown 25133
to have a beneficial interest in the business of the applicant or 25134
the permittee, other than an equity interest or debt liability, by 25135
the investigation thereof for any of the offenses enumerated in 25136
that division as disqualification criteria if that applicant has 25137
affirmatively demonstrated rehabilitation of the individual or 25138
business concern by a preponderance of the evidence. If any such 25139
individual was convicted of any of the offenses so enumerated that 25140
are felonies, a permit shall be denied unless five years have 25141
elapsed since the individual was fully discharged from 25142

imprisonment and parole for the offense, from a post-release 25143
control sanction imposed under section 2967.28 of the Revised Code 25144
for the offense, or imprisonment, probation, and parole for an 25145
offense that was committed prior to the effective date of this 25146
amendment. In determining whether an applicant has affirmatively 25147
demonstrated rehabilitation, the director, ~~the hazardous waste~~ 25148
~~facility board,~~ or the board of health shall request a 25149
recommendation on the matter from the attorney general and shall 25150
consider and base the determination on the following factors: 25151

(1) The nature and responsibilities of the position a 25152
convicted individual would hold; 25153

(2) The nature and seriousness of the offense; 25154

(3) The circumstances under which the offense occurred; 25155

(4) The date of the offense; 25156

(5) The age of the individual when the offense was committed; 25157

(6) Whether the offense was an isolated or repeated incident; 25158

(7) Any social conditions that may have contributed to the 25159
offense; 25160

(8) Any evidence of rehabilitation, including good conduct in 25161
prison or in the community, counseling or psychiatric treatment 25162
received, acquisition of additional academic or vocational 25163
schooling, successful participation in correctional work release 25164
programs, or the recommendation of persons who have or have had 25165
the applicant under their supervision; 25166

(9) In the instance of an applicant that is a business 25167
concern, rehabilitation shall be established if the applicant has 25168
implemented formal management controls to minimize and prevent the 25169
occurrence of violations and activities that will or may result in 25170
permit or license denial or revocation or if the applicant has 25171
formalized those controls as a result of a revocation or denial of 25172

a permit or license. Those controls may include, but are not 25173
limited to, instituting environmental auditing programs to help 25174
ensure the adequacy of internal systems to achieve, maintain, and 25175
monitor compliance with applicable environmental laws and 25176
standards or instituting an antitrust compliance auditing program 25177
to help ensure full compliance with applicable antitrust laws. The 25178
business concern shall prove by a preponderance of the evidence 25179
that the management controls are effective in preventing the 25180
violations that are the subject of concern. 25181

(D) Unless the director, ~~the hazardous waste facility board,~~ 25182
or the board of health finds that the applicant has a history of 25183
compliance with environmental laws in this state and other 25184
jurisdictions and is presently in substantial compliance with, or 25185
on a legally enforceable schedule that will result in compliance 25186
with, environmental laws in this state and other jurisdictions. ~~i~~ 25187

(E) With respect to the approval of a permit, if the director 25188
~~or the hazardous waste facility board~~ determines that current 25189
prosecutions or pending charges in any jurisdiction for any of the 25190
offenses enumerated in division (B) of this section against any 25191
individual or business concern required to be listed in the 25192
disclosure statement or shown by the investigation to have a 25193
beneficial interest in the business of the applicant other than an 25194
equity interest or debt liability are of such magnitude that they 25195
prevent making the finding required under division (A) of this 25196
section, provided that at the request of the applicant or the 25197
individual or business concern charged, the director ~~or the~~ 25198
~~hazardous waste facility board~~ shall defer decision upon the 25199
application during the pendency of the charge. 25200

Sec. 3734.46. Notwithstanding the disqualification of the 25201
applicant or permittee pursuant to this chapter, the director of 25202
environmental protection, ~~hazardous waste facility board,~~ or the 25203

board of health may issue or renew a permit or license if the 25204
applicant or permittee severs the interest of or affiliation with 25205
the individual or business concern that would otherwise cause that 25206
disqualification or may issue or renew a license on a temporary 25207
basis for a period not to exceed six months if the director or the 25208
board of health determines that the issuance or renewal of the 25209
permit or license is necessitated by the public interest. 25210

Sec. 3734.57. (A) For the purposes of paying the state's 25211
long-term operation costs or matching share for actions taken 25212
under the "Comprehensive Environmental Response, Compensation, and 25213
Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as 25214
amended; paying the costs of measures for proper clean-up of sites 25215
where polychlorinated biphenyls and substances, equipment, and 25216
devices containing or contaminated with polychlorinated biphenyls 25217
have been stored or disposed of; paying the costs of conducting 25218
surveys or investigations of solid waste facilities or other 25219
locations where it is believed that significant quantities of 25220
hazardous waste were disposed of and for conducting enforcement 25221
actions arising from the findings of such surveys or 25222
investigations; paying the costs of acquiring and cleaning up, or 25223
providing financial assistance for cleaning up, any hazardous 25224
waste facility or solid waste facility containing significant 25225
quantities of hazardous waste, that constitutes an imminent and 25226
substantial threat to public health or safety or the environment; 25227
and, from July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006, for the 25228
purposes of paying the costs of administering and enforcing the 25229
laws pertaining to solid wastes, infectious wastes, and 25230
construction and demolition debris, including, without limitation, 25231
ground water evaluations related to solid wastes, infectious 25232
wastes, and construction and demolition debris, under this chapter 25233
and Chapter 3714. of the Revised Code and any rules adopted under 25234
them, and paying a share of the administrative costs of the 25235

environmental protection agency pursuant to section 3745.014 of 25236
the Revised Code, the following fees are hereby levied on the 25237
disposal of solid wastes in this state: 25238

(1) One dollar per ton on and after July 1, 1993; 25239

(2) An additional ~~seventy five cents~~ one dollar per ton on 25240
and after July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006. 25241

The owner or operator of a solid waste disposal facility 25242
shall collect the fees levied under this division as a trustee for 25243
the state and shall prepare and file with the director of 25244
environmental protection monthly returns indicating the total 25245
tonnage of solid wastes received for disposal at the gate of the 25246
facility and the total amount of the fees collected under this 25247
division. Not later than thirty days after the last day of the 25248
month to which such a return applies, the owner or operator shall 25249
mail to the director the return for that month together with the 25250
fees collected during that month as indicated on the return. The 25251
owner or operator may request an extension of not more than thirty 25252
days for filing the return and remitting the fees, provided that 25253
the owner or operator has submitted such a request in writing to 25254
the director together with a detailed description of why the 25255
extension is requested, the director has received the request not 25256
later than the day on which the return is required to be filed, 25257
and the director has approved the request. If the fees are not 25258
remitted within sixty days after the last day of the month during 25259
which they were collected, the owner or operator shall pay an 25260
additional fifty per cent of the amount of the fees for each month 25261
that they are late. 25262

One-half of the moneys remitted to the director under 25263
division (A)(1) of this section shall be credited to the hazardous 25264
waste facility management fund created in section 3734.18 of the 25265
Revised Code, and one-half shall be credited to the hazardous 25266
waste clean-up fund created in section 3734.28 of the Revised 25267

Code. The moneys remitted to the director under division (A)(2) of 25268
this section shall be credited to the solid waste fund, which is 25269
hereby created in the state treasury. The environmental protection 25270
agency shall use moneys in the solid waste fund only to pay the 25271
costs of administering and enforcing the laws pertaining to solid 25272
wastes, infectious wastes, and construction and demolition debris, 25273
including, without limitation, ground water evaluations related to 25274
solid wastes, infectious wastes, and construction and demolition 25275
debris, under this chapter and Chapter 3714. of the Revised Code 25276
and rules adopted under them and to pay a share of the 25277
administrative costs of the environmental protection agency 25278
pursuant to section 3745.014 of the Revised Code. 25279

The fees levied under this division and divisions (B) and (C) 25280
of this section are in addition to all other applicable fees and 25281
taxes and shall be added to any other fee or amount specified in a 25282
contract that is charged by the owner or operator of a solid waste 25283
disposal facility or to any other fee or amount that is specified 25284
in a contract entered into on or after March 4, 1992, and that is 25285
charged by a transporter of solid wastes. 25286

(B) For the purpose of preparing, revising, and implementing 25287
the solid waste management plan of the county or joint solid waste 25288
management district, including, without limitation, the 25289
development and implementation of solid waste recycling or 25290
reduction programs; providing financial assistance to boards of 25291
health within the district, if solid waste facilities are located 25292
within the district, for the enforcement of this chapter and rules 25293
adopted and orders and terms and conditions of permits, licenses, 25294
and variances issued under it, other than the hazardous waste 25295
provisions of this chapter and rules adopted and orders and terms 25296
and conditions of permits issued under those provisions; providing 25297
financial assistance to the county to defray the added costs of 25298
maintaining roads and other public facilities and of providing 25299

emergency and other public services resulting from the location 25300
and operation of a solid waste facility within the county under 25301
the district's approved solid waste management plan; paying the 25302
costs incurred by boards of health for collecting and analyzing 25303
water samples from public or private wells on lands adjacent to 25304
solid waste facilities that are contained in the approved or 25305
amended plan of the district; paying the costs of developing and 25306
implementing a program for the inspection of solid wastes 25307
generated outside the boundaries of this state that are disposed 25308
of at solid waste facilities included in the district's approved 25309
solid waste management plan or amended plan; providing financial 25310
assistance to boards of health within the district for enforcing 25311
laws prohibiting open dumping; providing financial assistance to 25312
local law enforcement agencies within the district for enforcing 25313
laws and ordinances prohibiting littering; providing financial 25314
assistance to boards of health of health districts within the 25315
district that are on the approved list under section 3734.08 of 25316
the Revised Code for the training and certification required for 25317
their employees responsible for solid waste enforcement by rules 25318
adopted under division (L) of section 3734.02 of the Revised Code; 25319
providing financial assistance to individual municipal 25320
corporations and townships within the district to defray their 25321
added costs of maintaining roads and other public facilities and 25322
of providing emergency and other public services resulting from 25323
the location and operation within their boundaries of a 25324
composting, energy or resource recovery, incineration, or 25325
recycling facility that either is owned by the district or is 25326
furnishing solid waste management facility or recycling services 25327
to the district pursuant to a contract or agreement with the board 25328
of county commissioners or directors of the district; and payment 25329
of any expenses that are agreed to, awarded, or ordered to be paid 25330
under section 3734.35 of the Revised Code and of any 25331
administrative costs incurred pursuant to that section, the solid 25332

waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located in the district of solid wastes generated within the district;

(2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;

(3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

If any such fees are levied prior to January 1, 1994, fees levied under division (B)(1) of this section always shall be equal to one-half of the fees levied under division (B)(2) of this section, and fees levied under division (B)(3) of this section, which shall be in addition to fees levied under division (B)(2) of this section, always shall be equal to fees levied under division (B)(1) of this section, except as otherwise provided in this division. The solid waste management plan of the county or joint district approved under section 3734.521 or 3734.55 of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions (B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or cubic yards as the unit of measurement. Although the fees under divisions (A)(1) and (2) of this section are levied on the basis of tons as the unit of measurement, the solid waste management plan of the district and any amendments to it or the solid waste management policy committee in its resolution levying fees under this division may direct that the fees levied under those divisions be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes if

the fees under divisions (B)(1) to (3) of this section are being 25365
levied on the basis of cubic yards as the unit of measurement 25366
under the plan, amended plan, or resolution. 25367

On and after January 1, 1994, the fee levied under division 25368
(B)(1) of this section shall be not less than one dollar per ton 25369
nor more than two dollars per ton, the fee levied under division 25370
(B)(2) of this section shall be not less than two dollars per ton 25371
nor more than four dollars per ton, and the fee levied under 25372
division (B)(3) of this section shall be not more than the fee 25373
levied under division (B)(1) of this section, except as otherwise 25374
provided in this division and notwithstanding any schedule of 25375
those fees established in the solid waste management plan of a 25376
county or joint district approved under section 3734.55 of the 25377
Revised Code or a resolution adopted and ratified under this 25378
division that is in effect on that date. If the fee that a 25379
district is levying under division (B)(1) of this section on that 25380
date under its approved plan or such a resolution is less than one 25381
dollar per ton, the fee shall be one dollar per ton on and after 25382
January 1, 1994, and if the fee that a district is so levying 25383
under that division exceeds two dollars per ton, the fee shall be 25384
two dollars per ton on and after that date. If the fee that a 25385
district is so levying under division (B)(2) of this section is 25386
less than two dollars per ton, the fee shall be two dollars per 25387
ton on and after that date, and if the fee that the district is so 25388
levying under that division exceeds four dollars per ton, the fee 25389
shall be four dollars per ton on and after that date. On that 25390
date, the fee levied by a district under division (B)(3) of this 25391
section shall be equal to the fee levied under division (B)(1) of 25392
this section. Except as otherwise provided in this division, the 25393
fees established by the operation of this amendment shall remain 25394
in effect until the district's resolution levying fees under this 25395
division is amended or repealed in accordance with this division 25396
to amend or abolish the schedule of fees, the schedule of fees is 25397

amended or abolished in an amended plan of the district approved 25398
under section 3734.521 or division (A) or (D) of section 3734.56 25399
of the Revised Code, or the schedule of fees is amended or 25400
abolished through an amendment to the district's plan under 25401
division (E) of section 3734.56 of the Revised Code; the 25402
notification of the amendment or abolishment of the fees has been 25403
given in accordance with this division; and collection of the 25404
amended fees so established commences, or collection of the fees 25405
ceases, in accordance with this division. 25406

The solid waste management policy committee of a district 25407
levying fees under divisions (B)(1) to (3) of this section on 25408
October 29, 1993, under its solid waste management plan approved 25409
under section 3734.55 of the Revised Code or a resolution adopted 25410
and ratified under this division that are within the ranges of 25411
rates prescribed by this amendment, by adoption of a resolution 25412
not later than December 1, 1993, and without the necessity for 25413
ratification of the resolution under this division, may amend 25414
those fees within the prescribed ranges, provided that the 25415
estimated revenues from the amended fees will not substantially 25416
exceed the estimated revenues set forth in the district's budget 25417
for calendar year 1994. Not later than seven days after the 25418
adoption of such a resolution, the committee shall notify by 25419
certified mail the owner or operator of each solid waste disposal 25420
facility that is required to collect the fees of the adoption of 25421
the resolution and of the amount of the amended fees. Collection 25422
of the amended fees shall take effect on the first day of the 25423
first month following the month in which the notification is sent 25424
to the owner or operator. The fees established in such a 25425
resolution shall remain in effect until the district's resolution 25426
levying fees that was adopted and ratified under this division is 25427
amended or repealed, and the amendment or repeal of the resolution 25428
is ratified, in accordance with this division, to amend or abolish 25429
the fees, the schedule of fees is amended or abolished in an 25430

amended plan of the district approved under section 3734.521 or 25431
division (A) or (D) of section 3734.56 of the Revised Code, or the 25432
schedule of fees is amended or abolished through an amendment to 25433
the district's plan under division (E) of section 3734.56 of the 25434
Revised Code; the notification of the amendment or abolishment of 25435
the fees has been given in accordance with this division; and 25436
collection of the amended fees so established commences, or 25437
collection of the fees ceases, in accordance with this division. 25438

Prior to the approval of the solid waste management plan of 25439
the district under section 3734.55 of the Revised Code, the solid 25440
waste management policy committee of a district may levy fees 25441
under this division by adopting a resolution establishing the 25442
proposed amount of the fees. Upon adopting the resolution, the 25443
committee shall deliver a copy of the resolution to the board of 25444
county commissioners of each county forming the district and to 25445
the legislative authority of each municipal corporation and 25446
township under the jurisdiction of the district and shall prepare 25447
and publish the resolution and a notice of the time and location 25448
where a public hearing on the fees will be held. Upon adopting the 25449
resolution, the committee shall deliver written notice of the 25450
adoption of the resolution; of the amount of the proposed fees; 25451
and of the date, time, and location of the public hearing to the 25452
director and to the fifty industrial, commercial, or institutional 25453
generators of solid wastes within the district that generate the 25454
largest quantities of solid wastes, as determined by the 25455
committee, and to their local trade associations. The committee 25456
shall make good faith efforts to identify those generators within 25457
the district and their local trade associations, but the 25458
nonprovision of notice under this division to a particular 25459
generator or local trade association does not invalidate the 25460
proceedings under this division. The publication shall occur at 25461
least thirty days before the hearing. After the hearing, the 25462
committee may make such revisions to the proposed fees as it 25463

considers appropriate and thereafter, by resolution, shall adopt 25464
the revised fee schedule. Upon adopting the revised fee schedule, 25465
the committee shall deliver a copy of the resolution doing so to 25466
the board of county commissioners of each county forming the 25467
district and to the legislative authority of each municipal 25468
corporation and township under the jurisdiction of the district. 25469
Within sixty days after the delivery of a copy of the resolution 25470
adopting the proposed revised fees by the policy committee, each 25471
such board and legislative authority, by ordinance or resolution, 25472
shall approve or disapprove the revised fees and deliver a copy of 25473
the ordinance or resolution to the committee. If any such board or 25474
legislative authority fails to adopt and deliver to the policy 25475
committee an ordinance or resolution approving or disapproving the 25476
revised fees within sixty days after the policy committee 25477
delivered its resolution adopting the proposed revised fees, it 25478
shall be conclusively presumed that the board or legislative 25479
authority has approved the proposed revised fees. 25480

In the case of a county district or a joint district formed 25481
by two or three counties, the committee shall declare the proposed 25482
revised fees to be ratified as the fee schedule of the district 25483
upon determining that the board of county commissioners of each 25484
county forming the district has approved the proposed revised fees 25485
and that the legislative authorities of a combination of municipal 25486
corporations and townships with a combined population within the 25487
district comprising at least sixty per cent of the total 25488
population of the district have approved the proposed revised 25489
fees, provided that in the case of a county district, that 25490
combination shall include the municipal corporation having the 25491
largest population within the boundaries of the district, and 25492
provided further that in the case of a joint district formed by 25493
two or three counties, that combination shall include for each 25494
county forming the joint district the municipal corporation having 25495
the largest population within the boundaries of both the county in 25496

which the municipal corporation is located and the joint district. 25497
In the case of a joint district formed by four or more counties, 25498
the committee shall declare the proposed revised fees to be 25499
ratified as the fee schedule of the joint district upon 25500
determining that the boards of county commissioners of a majority 25501
of the counties forming the district have approved the proposed 25502
revised fees; that, in each of a majority of the counties forming 25503
the joint district, the proposed revised fees have been approved 25504
by the municipal corporation having the largest population within 25505
the county and the joint district; and that the legislative 25506
authorities of a combination of municipal corporations and 25507
townships with a combined population within the joint district 25508
comprising at least sixty per cent of the total population of the 25509
joint district have approved the proposed revised fees. 25510

For the purposes of this division, only the population of the 25511
unincorporated area of a township shall be considered. For the 25512
purpose of determining the largest municipal corporation within 25513
each county under this division, a municipal corporation that is 25514
located in more than one solid waste management district, but that 25515
is under the jurisdiction of one county or joint solid waste 25516
management district in accordance with division (A) of section 25517
3734.52 of the Revised Code shall be considered to be within the 25518
boundaries of the county in which a majority of the population of 25519
the municipal corporation resides. 25520

The committee may amend the schedule of fees levied pursuant 25521
to a resolution or amended resolution adopted and ratified under 25522
this division by adopting a resolution establishing the proposed 25523
amount of the amended fees. The committee may abolish the fees 25524
levied pursuant to such a resolution or amended resolution by 25525
adopting a resolution proposing to repeal them. Upon adopting such 25526
a resolution, the committee shall proceed to obtain ratification 25527
of the resolution in accordance with this division. 25528

Not later than fourteen days after declaring the fees or 25529
amended fees to be ratified under this division, the committee 25530
shall notify by certified mail the owner or operator of each solid 25531
waste disposal facility that is required to collect the fees of 25532
the ratification and the amount of the fees. Collection of any 25533
fees or amended fees ratified on or after March 24, 1992, shall 25534
commence on the first day of the second month following the month 25535
in which notification is sent to the owner or operator. 25536

Not later than fourteen days after declaring the repeal of 25537
the district's schedule of fees to be ratified under this 25538
division, the committee shall notify by certified mail the owner 25539
or operator of each facility that is collecting the fees of the 25540
repeal. Collection of the fees shall cease on the first day of the 25541
second month following the month in which notification is sent to 25542
the owner or operator. 25543

Not later than fourteen days after the director issues an 25544
order approving a district's solid waste management plan under 25545
section 3734.55 of the Revised Code or amended plan under division 25546
(A) or (D) of section 3734.56 of the Revised Code that establishes 25547
or amends a schedule of fees levied by the district, or the 25548
ratification of an amendment to the district's approved plan or 25549
amended plan under division (E) of section 3734.56 of the Revised 25550
Code that establishes or amends a schedule of fees, as 25551
appropriate, the committee shall notify by certified mail the 25552
owner or operator of each solid waste disposal facility that is 25553
required to collect the fees of the approval of the plan or 25554
amended plan, or the amendment to the plan, as appropriate, and 25555
the amount of the fees or amended fees. In the case of an initial 25556
or amended plan approved under section 3734.521 of the Revised 25557
Code in connection with a change in district composition, other 25558
than one involving the withdrawal of a county from a joint 25559
district, that establishes or amends a schedule of fees levied 25560

under divisions (B)(1) to (3) of this section by a district 25561
resulting from the change, the committee, within fourteen days 25562
after the change takes effect pursuant to division (G) of that 25563
section, shall notify by certified mail the owner or operator of 25564
each solid waste disposal facility that is required to collect the 25565
fees that the change has taken effect and of the amount of the 25566
fees or amended fees. Collection of any fees set forth in a plan 25567
or amended plan approved by the director on or after April 16, 25568
1993, or an amendment of a plan or amended plan under division (E) 25569
of section 3734.56 of the Revised Code that is ratified on or 25570
after April 16, 1993, shall commence on the first day of the 25571
second month following the month in which notification is sent to 25572
the owner or operator. 25573

Not later than fourteen days after the director issues an 25574
order approving a district's plan under section 3734.55 of the 25575
Revised Code or amended plan under division (A) or (D) of section 25576
3734.56 of the Revised Code that abolishes the schedule of fees 25577
levied under divisions (B)(1) to (3) of this section, or an 25578
amendment to the district's approved plan or amended plan 25579
abolishing the schedule of fees is ratified pursuant to division 25580
(E) of section 3734.56 of the Revised Code, as appropriate, the 25581
committee shall notify by certified mail the owner or operator of 25582
each facility that is collecting the fees of the approval of the 25583
plan or amended plan, or the amendment of the plan or amended 25584
plan, as appropriate, and the abolishment of the fees. In the case 25585
of an initial or amended plan approved under section 3734.521 of 25586
the Revised Code in connection with a change in district 25587
composition, other than one involving the withdrawal of a county 25588
from a joint district, that abolishes the schedule of fees levied 25589
under divisions (B)(1) to (3) of this section by a district 25590
resulting from the change, the committee, within fourteen days 25591
after the change takes effect pursuant to division (G) of that 25592
section, shall notify by certified mail the owner or operator of 25593

each solid waste disposal facility that is required to collect the 25594
fees that the change has taken effect and of the abolishment of 25595
the fees. Collection of the fees shall cease on the first day of 25596
the second month following the month in which notification is sent 25597
to the owner or operator. 25598

Except as otherwise provided in this division, if the 25599
schedule of fees that a district is levying under divisions (B)(1) 25600
to (3) of this section pursuant to a resolution or amended 25601
resolution adopted and ratified under this division, the solid 25602
waste management plan of the district approved under section 25603
3734.55 of the Revised Code, an amended plan approved under 25604
division (A) or (D) of section 3734.56 of the Revised Code, or an 25605
amendment to the district's approved plan or amended plan under 25606
division (E) of section 3734.56 of the Revised Code, is amended by 25607
the adoption and ratification of an amendment to the resolution or 25608
amended resolution or an amendment of the district's approved plan 25609
or amended plan, the fees in effect immediately prior to the 25610
approval of the plan or the amendment of the resolution, amended 25611
resolution, plan, or amended plan, as appropriate, shall continue 25612
to be collected until collection of the amended fees commences 25613
pursuant to this division. 25614

If, in the case of a change in district composition involving 25615
the withdrawal of a county from a joint district, the director 25616
completes the actions required under division (G)(1) or (3) of 25617
section 3734.521 of the Revised Code, as appropriate, forty-five 25618
days or more before the beginning of a calendar year, the policy 25619
committee of each of the districts resulting from the change that 25620
obtained the director's approval of an initial or amended plan in 25621
connection with the change, within fourteen days after the 25622
director's completion of the required actions, shall notify by 25623
certified mail the owner or operator of each solid waste disposal 25624
facility that is required to collect the district's fees that the 25625

change is to take effect on the first day of January immediately 25626
following the issuance of the notice and of the amount of the fees 25627
or amended fees levied under divisions (B)(1) to (3) of this 25628
section pursuant to the district's initial or amended plan as so 25629
approved or, if appropriate, the abolishment of the district's 25630
fees by that initial or amended plan. Collection of any fees set 25631
forth in such a plan or amended plan shall commence on the first 25632
day of January immediately following the issuance of the notice. 25633
If such an initial or amended plan abolishes a schedule of fees, 25634
collection of the fees shall cease on that first day of January. 25635

If, in the case of a change in district composition involving 25636
the withdrawal of a county from a joint district, the director 25637
completes the actions required under division (G)(1) or (3) of 25638
section 3734.521 of the Revised Code, as appropriate, less than 25639
forty-five days before the beginning of a calendar year, the 25640
director, on behalf of each of the districts resulting from the 25641
change that obtained the director's approval of an initial or 25642
amended plan in connection with the change proceedings, shall 25643
notify by certified mail the owner or operator of each solid waste 25644
disposal facility that is required to collect the district's fees 25645
that the change is to take effect on the first day of January 25646
immediately following the mailing of the notice and of the amount 25647
of the fees or amended fees levied under divisions (B)(1) to (3) 25648
of this section pursuant to the district's initial or amended plan 25649
as so approved or, if appropriate, the abolishment of the 25650
district's fees by that initial or amended plan. Collection of any 25651
fees set forth in such a plan or amended plan shall commence on 25652
the first day of the second month following the month in which 25653
notification is sent to the owner or operator. If such an initial 25654
or amended plan abolishes a schedule of fees, collection of the 25655
fees shall cease on the first day of the second month following 25656
the month in which notification is sent to the owner or operator. 25657

In the case of a change in district composition, the schedule 25658
of fees that the former districts that existed prior to the change 25659
were levying under divisions (B)(1) to (3) of this section 25660
pursuant to a resolution or amended resolution adopted and 25661
ratified under this division, the solid waste management plan of a 25662
former district approved under section 3734.521 or 3734.55 of the 25663
Revised Code, an amended plan approved under section 3734.521 or 25664
division (A) or (D) of section 3734.56 of the Revised Code, or an 25665
amendment to a former district's approved plan or amended plan 25666
under division (E) of section 3734.56 of the Revised Code, and 25667
that were in effect on the date that the director completed the 25668
actions required under division (G)(1) or (3) of section 3734.521 25669
of the Revised Code shall continue to be collected until the 25670
collection of the fees or amended fees of the districts resulting 25671
from the change is required to commence, or if an initial or 25672
amended plan of a resulting district abolishes a schedule of fees, 25673
collection of the fees is required to cease, under this division. 25674
Moneys so received from the collection of the fees of the former 25675
districts shall be divided among the resulting districts in 25676
accordance with division (B) of section 343.012 of the Revised 25677
Code and the agreements entered into under division (B) of section 25678
343.01 of the Revised Code to establish the former and resulting 25679
districts and any amendments to those agreements. 25680

For the purposes of the provisions of division (B) of this 25681
section establishing the times when newly established or amended 25682
fees levied by a district are required to commence and the 25683
collection of fees that have been amended or abolished is required 25684
to cease, "fees" or "schedule of fees" includes, in addition to 25685
fees levied under divisions (B)(1) to (3) of this section, those 25686
levied under section 3734.573 or 3734.574 of the Revised Code. 25687

(C) For the purposes of defraying the added costs to a 25688
municipal corporation or township of maintaining roads and other 25689

public facilities and of providing emergency and other public 25690
services, and compensating a municipal corporation or township for 25691
reductions in real property tax revenues due to reductions in real 25692
property valuations resulting from the location and operation of a 25693
solid waste disposal facility within the municipal corporation or 25694
township, a municipal corporation or township in which such a 25695
solid waste disposal facility is located may levy a fee of not 25696
more than twenty-five cents per ton on the disposal of solid 25697
wastes at a solid waste disposal facility located within the 25698
boundaries of the municipal corporation or township regardless of 25699
where the wastes were generated. 25700

The legislative authority of a municipal corporation or 25701
township may levy fees under this division by enacting an 25702
ordinance or adopting a resolution establishing the amount of the 25703
fees. Upon so doing the legislative authority shall mail a 25704
certified copy of the ordinance or resolution to the board of 25705
county commissioners or directors of the county or joint solid 25706
waste management district in which the municipal corporation or 25707
township is located or, if a regional solid waste management 25708
authority has been formed under section 343.011 of the Revised 25709
Code, to the board of trustees of that regional authority, the 25710
owner or operator of each solid waste disposal facility in the 25711
municipal corporation or township that is required to collect the 25712
fee by the ordinance or resolution, and the director of 25713
environmental protection. Although the fees levied under this 25714
division are levied on the basis of tons as the unit of 25715
measurement, the legislative authority, in its ordinance or 25716
resolution levying the fees under this division, may direct that 25717
the fees be levied on the basis of cubic yards as the unit of 25718
measurement based upon a conversion factor of three cubic yards 25719
per ton generally or one cubic yard per ton for baled wastes. 25720

Not later than five days after enacting an ordinance or 25721

adopting a resolution under this division, the legislative 25722
authority shall so notify by certified mail the owner or operator 25723
of each solid waste disposal facility that is required to collect 25724
the fee. Collection of any fee levied on or after March 24, 1992, 25725
shall commence on the first day of the second month following the 25726
month in which notification is sent to the owner or operator. 25727

(D)(1) The fees levied under divisions (A), (B), and (C) of 25728
this section do not apply to the disposal of solid wastes that: 25729

(a) Are disposed of at a facility owned by the generator of 25730
the wastes when the solid waste facility exclusively disposes of 25731
solid wastes generated at one or more premises owned by the 25732
generator regardless of whether the facility is located on a 25733
premises where the wastes are generated; 25734

(b) Are disposed of at facilities that exclusively dispose of 25735
wastes that are generated from the combustion of coal, or from the 25736
combustion of primarily coal in combination with scrap tires, that 25737
is not combined in any way with garbage at one or more premises 25738
owned by the generator. 25739

(2) Except as provided in section 3734.571 of the Revised 25740
Code, any fees levied under division (B)(1) of this section apply 25741
to solid wastes originating outside the boundaries of a county or 25742
joint district that are covered by an agreement for the joint use 25743
of solid waste facilities entered into under section 343.02 of the 25744
Revised Code by the board of county commissioners or board of 25745
directors of the county or joint district where the wastes are 25746
generated and disposed of. 25747

(3) When solid wastes, other than solid wastes that consist 25748
of scrap tires, are burned in a disposal facility that is an 25749
incinerator or energy recovery facility, the fees levied under 25750
divisions (A), (B), and (C) of this section shall be levied upon 25751
the disposal of the fly ash and bottom ash remaining after burning 25752

of the solid wastes and shall be collected by the owner or 25753
operator of the sanitary landfill where the ash is disposed of. 25754

(4) When solid wastes are delivered to a solid waste transfer 25755
facility, the fees levied under divisions (A), (B), and (C) of 25756
this section shall be levied upon the disposal of solid wastes 25757
transported off the premises of the transfer facility for disposal 25758
and shall be collected by the owner or operator of the solid waste 25759
disposal facility where the wastes are disposed of. 25760

(5) The fees levied under divisions (A), (B), and (C) of this 25761
section do not apply to sewage sludge that is generated by a waste 25762
water treatment facility holding a national pollutant discharge 25763
elimination system permit and that is disposed of through 25764
incineration, land application, or composting or at another 25765
resource recovery or disposal facility that is not a landfill. 25766

(6) The fees levied under divisions (A), (B), and (C) of this 25767
section do not apply to solid wastes delivered to a solid waste 25768
composting facility for processing. When any unprocessed solid 25769
waste or compost product is transported off the premises of a 25770
composting facility and disposed of at a landfill, the fees levied 25771
under divisions (A), (B), and (C) of this section shall be 25772
collected by the owner or operator of the landfill where the 25773
unprocessed waste or compost product is disposed of. 25774

(7) When solid wastes that consist of scrap tires are 25775
processed at a scrap tire recovery facility, the fees levied under 25776
divisions (A), (B), and (C) of this section shall be levied upon 25777
the disposal of the fly ash and bottom ash or other solid wastes 25778
remaining after the processing of the scrap tires and shall be 25779
collected by the owner or operator of the solid waste disposal 25780
facility where the ash or other solid wastes are disposed of. 25781

(E) The fees levied under divisions (B) and (C) of this 25782
section shall be collected by the owner or operator of the solid 25783

waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the clerk of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or such other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the clerk of the township under that division shall be paid into the general fund of the township. The treasurer or such other officer of the municipal corporation or the clerk, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint

district arising from the fees levied under division (B) of this 25816
section and the fee levied under division (A) of section 3734.573 25817
of the Revised Code shall be expended by the board of county 25818
commissioners or directors of the district in accordance with the 25819
district's solid waste management plan or amended plan approved 25820
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 25821
exclusively for the following purposes: 25822

(1) Preparation of the solid waste management plan of the 25823
district under section 3734.54 of the Revised Code, monitoring 25824
implementation of the plan, and conducting the periodic review and 25825
amendment of the plan required by section 3734.56 of the Revised 25826
Code by the solid waste management policy committee; 25827

(2) Implementation of the approved solid waste management 25828
plan or amended plan of the district, including, without 25829
limitation, the development and implementation of solid waste 25830
recycling or reduction programs; 25831

(3) Providing financial assistance to boards of health within 25832
the district, if solid waste facilities are located within the 25833
district, for enforcement of this chapter and rules, orders, and 25834
terms and conditions of permits, licenses, and variances adopted 25835
or issued under it, other than the hazardous waste provisions of 25836
this chapter and rules adopted and orders and terms and conditions 25837
of permits issued under those provisions; 25838

(4) Providing financial assistance to each county within the 25839
district to defray the added costs of maintaining roads and other 25840
public facilities and of providing emergency and other public 25841
services resulting from the location and operation of a solid 25842
waste facility within the county under the district's approved 25843
solid waste management plan or amended plan; 25844

(5) Pursuant to contracts entered into with boards of health 25845
within the district, if solid waste facilities contained in the 25846

district's approved plan or amended plan are located within the 25847
district, for paying the costs incurred by those boards of health 25848
for collecting and analyzing samples from public or private water 25849
wells on lands adjacent to those facilities; 25850

(6) Developing and implementing a program for the inspection 25851
of solid wastes generated outside the boundaries of this state 25852
that are disposed of at solid waste facilities included in the 25853
district's approved solid waste management plan or amended plan; 25854

(7) Providing financial assistance to boards of health within 25855
the district for the enforcement of section 3734.03 of the Revised 25856
Code or to local law enforcement agencies having jurisdiction 25857
within the district for enforcing anti-littering laws and 25858
ordinances; 25859

(8) Providing financial assistance to boards of health of 25860
health districts within the district that are on the approved list 25861
under section 3734.08 of the Revised Code to defray the costs to 25862
the health districts for the participation of their employees 25863
responsible for enforcement of the solid waste provisions of this 25864
chapter and rules adopted and orders and terms and conditions of 25865
permits, licenses, and variances issued under those provisions in 25866
the training and certification program as required by rules 25867
adopted under division (L) of section 3734.02 of the Revised Code; 25868

(9) Providing financial assistance to individual municipal 25869
corporations and townships within the district to defray their 25870
added costs of maintaining roads and other public facilities and 25871
of providing emergency and other public services resulting from 25872
the location and operation within their boundaries of a 25873
composting, energy or resource recovery, incineration, or 25874
recycling facility that either is owned by the district or is 25875
furnishing solid waste management facility or recycling services 25876
to the district pursuant to a contract or agreement with the board 25877
of county commissioners or directors of the district; 25878

(10) Payment of any expenses that are agreed to, awarded, or 25879
ordered to be paid under section 3734.35 of the Revised Code and 25880
of any administrative costs incurred pursuant to that section. In 25881
the case of a joint solid waste management district, if the board 25882
of county commissioners of one of the counties in the district is 25883
negotiating on behalf of affected communities, as defined in that 25884
section, in that county, the board shall obtain the approval of 25885
the board of directors of the district in order to expend moneys 25886
for administrative costs incurred. 25887

Prior to the approval of the district's solid waste 25888
management plan under section 3734.55 of the Revised Code, moneys 25889
in the special fund of the district arising from the fees shall be 25890
expended for those purposes in the manner prescribed by the solid 25891
waste management policy committee by resolution. 25892

Notwithstanding division (G)(6) of this section as it existed 25893
prior to October 29, 1993, or any provision in a district's solid 25894
waste management plan prepared in accordance with division 25895
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 25896
prior to that date, any moneys arising from the fees levied under 25897
division (B)(3) of this section prior to January 1, 1994, may be 25898
expended for any of the purposes authorized in divisions (G)(1) to 25899
(10) of this section. 25900

(H) The director shall adopt rules in accordance with Chapter 25901
119. of the Revised Code prescribing procedures for collecting and 25902
forwarding the fees levied under divisions (B) and (C) of this 25903
section to the boards of county commissioners or directors of 25904
county or joint solid waste management districts and to the 25905
treasurers or other officers of municipal corporations or to the 25906
clerks of townships. The rules also shall prescribe the dates for 25907
forwarding the fees to the boards and officials and may prescribe 25908
any other requirements the director considers necessary or 25909
appropriate to implement and administer divisions (A), (B), and 25910

(C) of this section. Collection of the fees levied under division 25911
(A)(1) of this section shall commence on July 1, 1993. Collection 25912
of the fees levied under division (A)(2) of this section shall 25913
commence on January 1, 1994. 25914

Sec. 3735.67. (A) The owner of real property located in a 25915
community reinvestment area and eligible for exemption from 25916
taxation under a resolution adopted pursuant to section 3735.66 of 25917
the Revised Code may file an application for an exemption from 25918
real property taxation of a percentage of the assessed valuation 25919
of a new structure or remodeling, completed after the effective 25920
date of the resolution adopted pursuant to section 3735.66 of the 25921
Revised Code, with the housing officer designated pursuant to 25922
section 3735.66 of the Revised Code for the community reinvestment 25923
area in which the property is located. If any part of the new 25924
structure or remodeling that would be exempted is of real property 25925
to be used for commercial or industrial purposes, the legislative 25926
authority and the owner of the property shall enter into a written 25927
agreement pursuant to section 3735.671 of the Revised Code prior 25928
to commencement of construction or remodeling; if such an 25929
agreement is subject to approval by the board of education of the 25930
school district within the territory of which the property is or 25931
will be located, the agreement shall not be formally approved by 25932
the legislative authority until the board of education approves 25933
the agreement in the manner prescribed by that section. 25934

(B) The housing officer shall verify the construction of the 25935
new structure or the cost of the remodeling and the facts asserted 25936
in the application. The housing officer shall determine whether 25937
the construction or the cost of the remodeling meets the 25938
requirements for an exemption under this section. In cases 25939
involving a structure of historical or architectural significance, 25940
the housing officer shall not determine whether the remodeling 25941
meets the requirements for a tax exemption unless the 25942

appropriateness of the remodeling has been certified, in writing, 25943
by the society, association, agency, or legislative authority that 25944
has designated the structure or by any organization or person 25945
authorized, in writing, by such society, association, agency, or 25946
legislative authority to certify the appropriateness of the 25947
remodeling. 25948

(C) If the construction or remodeling meets the requirements 25949
for exemption, the housing officer shall forward the application 25950
to the county auditor with a certification as to the division of 25951
this section under which the exemption is granted, and the period 25952
and percentage of the exemption as determined by the legislative 25953
authority pursuant to that division. If the construction or 25954
remodeling is of commercial or industrial property and the 25955
legislative authority is not required to certify a copy of a 25956
resolution under section 3735.671 of the Revised Code, the housing 25957
officer shall comply with the notice requirements prescribed under 25958
section 5709.83 of the Revised Code, unless the board has adopted 25959
a resolution under that section waiving its right to receive such 25960
a notice. 25961

(D) The tax exemption shall first apply in the year the 25962
construction or remodeling would first be taxable but for this 25963
section. In the case of remodeling that qualifies for exemption, a 25964
percentage, not to exceed one hundred per cent, of the amount by 25965
which the remodeling increased the assessed value of the structure 25966
shall be exempted from real property taxation. In the case of 25967
construction of a structure that qualifies for exemption, a 25968
percentage, not to exceed one hundred per cent, of the assessed 25969
value of the structure shall be exempted from real property 25970
taxation. In either case, the percentage shall be the percentage 25971
set forth in the agreement if the structure or remodeling is to be 25972
used for commercial or industrial purposes, or the percentage set 25973
forth in the resolution describing the community reinvestment area 25974

if the structure or remodeling is to be used for residential 25975
purposes. 25976

The construction of new structures and the remodeling of 25977
existing structures are hereby declared to be a public purpose for 25978
which exemptions from real property taxation may be granted for 25979
the following periods: 25980

(1) For every dwelling containing not more than two family 25981
units located within the same community reinvestment area and upon 25982
which the cost of remodeling is at least two thousand five hundred 25983
dollars, a period to be determined by the legislative authority 25984
adopting the resolution describing the community reinvestment area 25985
where the dwelling is located, but not exceeding ten years; 25986

(2) For every dwelling containing more than two units and 25987
commercial or industrial properties, located within the same 25988
community reinvestment area, upon which the cost of remodeling is 25989
at least five thousand dollars, a period to be determined by the 25990
legislative authority adopting the resolution, but not exceeding 25991
twelve years; 25992

(3) For construction of every dwelling, and commercial or 25993
industrial structure located within the same community 25994
reinvestment area, a period to be determined by the legislative 25995
authority adopting the resolution, but not exceeding fifteen 25996
years. 25997

(E) Any person, board, or officer authorized by section 25998
5715.19 of the Revised Code to file complaints with the county 25999
board of revision may file a complaint with the housing officer 26000
challenging the continued exemption of any property granted an 26001
exemption under this section. A complaint against exemption shall 26002
be filed prior to the thirty-first day of December of the tax year 26003
for which taxation of the property is requested. The housing 26004
officer shall determine whether the property continues to meet the 26005

requirements for exemption and shall certify the housing officer's 26006
findings to the complainant. If the housing officer determines 26007
that the property does not meet the requirements for exemption, 26008
the housing officer shall notify the county auditor that the 26009
exemption no longer applies. 26010

Sec. 3735.671. (A) If construction or remodeling of 26011
commercial or industrial property is to be exempted from taxation 26012
pursuant to section 3735.67 of the Revised Code, the legislative 26013
authority and the owner of the property, prior to the commencement 26014
of construction or remodeling, shall enter into a written 26015
agreement, binding on both parties for a period of time that does 26016
not end prior to the end of the period of the exemption, that 26017
includes all of the information and statements prescribed by this 26018
section. Agreements may include terms not prescribed by this 26019
section, but such terms shall in no way derogate from the 26020
information and statements prescribed by this section. 26021

(1) Except as otherwise provided in division (A)(2) or (3) of 26022
this section, an agreement entered into under this section shall 26023
not be approved by the legislative authority unless the board of 26024
education of the city, local, or exempted village school district 26025
within the territory of which the property is or will be located 26026
approves the agreement. For the purpose of obtaining such 26027
approval, the legislative authority shall certify a copy of the 26028
agreement to the board of education not later than forty-five days 26029
prior to approving the agreement, excluding Saturday, Sunday, and 26030
a legal holiday as defined in section 1.14 of the Revised Code. 26031
The board of education, by resolution adopted by a majority of the 26032
board, shall approve or disapprove the agreement and certify a 26033
copy of the resolution to the legislative authority not later than 26034
fourteen days prior to the date stipulated by the legislative 26035
authority as the date upon which approval of the agreement is to 26036
be formally considered by the legislative authority. The board of 26037

education may include in the resolution conditions under which the board would approve the agreement. The legislative authority may approve an agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

(2) Approval of an agreement by the board of education is not required under division (A)(1) of this section if, for each tax year the real property is exempted from taxation, the sum of the following quantities, as estimated at or prior to the time the agreement is formally approved by the legislative authority, equals or exceeds fifty per cent of the amount of taxes, as estimated at or prior to that time, that would have been charged and payable that year upon the real property had that property not been exempted from taxation:

(a) The amount of taxes charged and payable on any portion of the assessed valuation of the new structure or remodeling that will not be exempted from taxation under the agreement;

(b) The amount of taxes charged and payable on tangible personal property located on the premises of the new structure or of the structure to be remodeled under the agreement, whether payable by the owner of the structure or by a related member, as defined in section 5733.042 of the Revised Code without regard to division (B) of that section.

(c) The amount of any cash payment by the owner of the new structure or structure to be remodeled to the school district, the dollar value, as mutually agreed to be the owner and the board of education, of any property or services provided by the owner of the property to the school district, whether by gift, loan, or otherwise, and any payment by the legislative authority to the school district pursuant to section 5709.82 of the Revised Code.

The estimates of quantities used for purposes of division 26070
(A)(2) of this section shall be estimated by the legislative 26071
authority. The legislative authority shall certify to the board of 26072
education that the estimates have been made in good faith. 26073
Departures of the actual quantities from the estimates subsequent 26074
to approval of the agreement by the board of education do not 26075
invalidate the agreement. 26076

(3) If a board of education has adopted a resolution waiving 26077
its right to approve agreements and the resolution remains in 26078
effect, approval of an agreement by the board is not required 26079
under this division. If a board of education has adopted a 26080
resolution allowing a legislative authority to deliver the notice 26081
required under this division fewer than forty-five business days 26082
prior to the legislative authority's execution of the agreement, 26083
the legislative authority shall deliver the notice to the board 26084
not later than the number of days prior to such execution as 26085
prescribed by the board in its resolution. If a board of education 26086
adopts a resolution waiving its right to approve agreements or 26087
shortening the notification period, the board shall certify a copy 26088
of the resolution to the legislative authority. If the board of 26089
education rescinds such a resolution, it shall certify notice of 26090
the rescission to the legislative authority. 26091

(B) Each agreement shall include the following information: 26092

(1) The names of all parties to the agreement; 26093

(2) A description of the remodeling or construction, whether 26094
or not to be exempted from taxation, including existing or new 26095
structure size and cost thereof; the value of machinery, 26096
equipment, furniture, and fixtures, including an itemization of 26097
the value of machinery, equipment, furniture, and fixtures used at 26098
another location in this state prior to the agreement and 26099
relocated or to be relocated from that location to the property, 26100

and the value of machinery, equipment, furniture, and fixtures at 26101
the facility prior to the execution of the agreement; the value of 26102
inventory at the property, including an itemization of the value 26103
of inventory held at another location in this state prior to the 26104
agreement and relocated or to be relocated from that location to 26105
the property, and the value of inventory held at the property 26106
prior to the execution of the agreement; 26107

(3) The scheduled starting and completion dates of remodeling 26108
or construction of real property or of investments made in 26109
machinery, equipment, furniture, fixtures, and inventory; 26110

(4) Estimates of the number of employee positions to be 26111
created each year of the agreement and of the number of employee 26112
positions retained by the owner due to the remodeling or 26113
construction, itemized as to the number of full-time, part-time, 26114
permanent, and temporary positions; 26115

(5) Estimates of the dollar amount of payroll attributable to 26116
the positions set forth in division (B)(4) of this section, 26117
similarly itemized; 26118

(6) The number of employee positions, if any, at the property 26119
and at any other location in this state at the time the agreement 26120
is executed, itemized as to the number of full-time, part-time, 26121
permanent, and temporary positions. 26122

(C) Each agreement shall set forth the following information 26123
and incorporate the following statements: 26124

(1) A description of real property to be exempted from 26125
taxation under the agreement, the percentage of the assessed 26126
valuation of the real property exempted from taxation, and the 26127
period for which the exemption is granted, accompanied by the 26128
statement: "The exemption commences the first year for which the 26129
real property would first be taxable were that property not 26130
exempted from taxation. No exemption shall commence after 26131

..... (insert date) nor extend beyond (insert
date)." The tax commissioner shall adopt rules prescribing the
form the description of such property shall assume in order to
ensure that the property to be exempted from taxation under the
agreement is distinguishable from property that is not to be
exempted under that agreement.

(2) "..... (insert name of owner) shall pay such real
property taxes as are not exempted under this agreement and are
charged against such property and shall file all tax reports and
returns as required by law. If (insert name of owner)
fails to pay such taxes or file such returns and reports,
exemptions from taxation granted under this agreement are
rescinded beginning with the year for which such taxes are charged
or such reports or returns are required to be filed and
thereafter."

(3) "..... (insert name of owner) hereby certifies that
at the time this agreement is executed, (insert name of
owner) does not owe any delinquent real or tangible personal
property taxes to any taxing authority of the State of Ohio, and
does not owe delinquent taxes for which (insert name of
owner) is liable under Chapter 5733., 5735., 5739., 5741., 5743.,
5747., or 5753. of the Ohio Revised Code, or, if such delinquent
taxes are owed, (insert name of owner) currently is
paying the delinquent taxes pursuant to an undertaking enforceable
by the State of Ohio or an agent or instrumentality thereof, has
filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or
such a petition has been filed against (insert name of
owner). For the purposes of this certification, delinquent taxes
are taxes that remain unpaid on the latest day prescribed for
payment without penalty under the chapter of the Revised Code
governing payment of those taxes."

(4) "..... (insert name of municipal corporation or

county) shall perform such acts as are reasonably necessary or 26164
appropriate to effect, claim, reserve, and maintain exemptions 26165
from taxation granted under this agreement including, without 26166
limitation, joining in the execution of all documentation and 26167
providing any necessary certificates required in connection with 26168
such exemptions." 26169

(5) "If for any reason (insert name of municipal 26170
corporation or county) revokes the designation of the area, 26171
entitlements granted under this agreement shall continue for the 26172
number of years specified under this agreement, unless 26173
(insert name of owner) materially fails to fulfill its obligations 26174
under this agreement and (insert name of 26175
municipal corporation or county) terminates or modifies the 26176
exemptions from taxation pursuant to this agreement." 26177

(6) "If (insert name of owner) materially fails to 26178
fulfill its obligations under this agreement, or if 26179
(insert name of municipal corporation or county) determines that 26180
the certification as to delinquent taxes required by this 26181
agreement is fraudulent, (insert name of municipal 26182
corporation or county) may terminate or modify the exemptions from 26183
taxation granted under this agreement." 26184

(7) "..... (insert name of owner) shall provide to the 26185
proper tax incentive review council any information reasonably 26186
required by the council to evaluate the applicant's compliance 26187
with the agreement, including returns filed pursuant to section 26188
5711.02 of the Ohio Revised Code if requested by the council." 26189

(8) "This agreement is not transferable or assignable without 26190
the express, written approval of (insert name of 26191
municipal corporation or county)." 26192

(9) "Exemptions from taxation granted under this agreement 26193
shall be revoked if it is determined that (insert name 26194

of owner), any successor to that person, or any related member (as 26195
those terms are defined in division (E) of section 3735.671 of the 26196
Ohio Revised Code) has violated the prohibition against entering 26197
into this agreement under division (E) of section 3735.671 or 26198
section 5709.62 or 5709.63 of the Ohio Revised Code prior to the 26199
time prescribed by that division or either of those sections." 26200

(10) "..... (insert name of owner) and 26201
(insert name of municipal corporation or county) acknowledge that 26202
this agreement must be approved by formal action of the 26203
legislative authority of (insert name of municipal 26204
corporation or county) as a condition for the agreement to take 26205
effect. This agreement takes effect upon such approval." 26206

The statement described in division (C)(6) of this section 26207
may include the following statement, appended at the end of the 26208
statement: ", and may require the repayment of the amount of taxes 26209
that would have been payable had the property not been exempted 26210
from taxation under this agreement." 26211

(D) Except as otherwise provided in this division, an 26212
agreement entered into under this section shall require that the 26213
owner pay an annual fee equal to the greater of one per cent of 26214
the amount of taxes exempted under the agreement or five hundred 26215
dollars; provided, however, that if the value of the incentives 26216
exceeds two hundred fifty thousand dollars, the fee shall not 26217
exceed two thousand five hundred dollars. The fee shall be payable 26218
to the legislative authority once per year for each year the 26219
agreement is effective on the days and in the form specified in 26220
the agreement. Fees paid shall be deposited in a special fund 26221
created for such purpose by the legislative authority and shall be 26222
used by the legislative authority exclusively for the purpose of 26223
complying with section 3735.672 of the Revised Code and by the tax 26224
incentive review council created under section 5709.85 of the 26225
Revised Code exclusively for the purposes of performing the duties 26226

prescribed under that section. The legislative authority may waive 26227
or reduce the amount of the fee, but such waiver or reduction does 26228
not affect the obligations of the legislative authority or the tax 26229
incentive review council to comply with section 3735.672 or 26230
5709.85 of the Revised Code. 26231

(E) If any person that is party to an agreement granting an 26232
exemption from taxation discontinues operations at the structure 26233
to which that exemption applies prior to the expiration of the 26234
term of the agreement, that person, any successor to that person, 26235
and any related member shall not enter into an agreement under 26236
this section or section 5709.62, 5709.63, or 5709.632 of the 26237
Revised Code, and no legislative authority shall enter into such 26238
an agreement with such a person, successor, or related member, 26239
prior to the expiration of five years after the discontinuation of 26240
operations. As used in this division, "successor" means a person 26241
to which the assets or equity of another person has been 26242
transferred, which transfer resulted in the full or partial 26243
nonrecognition of gain or loss, or resulted in a carryover basis, 26244
both as determined by rule adopted by the tax commissioner. 26245
"Related member" has the same meaning as defined in section 26246
5733.042 of the Revised Code without regard to division (B) of 26247
that section. 26248

The director of development shall review all agreements 26249
submitted to the director under division (F) of this section for 26250
the purpose of enforcing this division. If the director determines 26251
there has been a violation of this division, the director shall 26252
notify the legislative authority of such violation, and the 26253
legislative authority immediately shall revoke the exemption 26254
granted under the agreement. 26255

(F) When an agreement is entered into under this section, the 26256
legislative authority authorizing the agreement shall forward a 26257
copy of the agreement to the director of development ~~and to the~~ 26258

~~tax commissioner~~ within fifteen days after the agreement is entered into. 26259
26260

Sec. 3737.81. (A) There is hereby created the state fire 26261
commission consisting of ten members to be appointed by the 26262
governor with the advice and consent of the senate. The fire 26263
marshal or ~~his~~ fire marshal's chief deputy, a representative 26264
designated by the department of public safety who has tenure in 26265
fire suppression, and a representative designated by the board of 26266
building standards shall be ex officio members. Of the initial 26267
appointments made to the commission, two shall be for a term 26268
ending one year after ~~the effective date of this section~~ November 26269
1, 1978, two shall be for a term ending two years after that date, 26270
two shall be for a term ending three years after that date, two 26271
shall be for a term ending four years after that date, and two 26272
shall be for a term ending five years after that date. Thereafter, 26273
terms of office shall be for five years, each term ending on the 26274
same day of the same month of the year as did the term which it 26275
succeeds. Each member shall hold office from the date of ~~his~~ 26276
appointment until the end of the term for which ~~he~~ the member was 26277
appointed. Any member appointed to fill a vacancy occurring prior 26278
to the expiration of the term for which ~~his~~ the member's 26279
predecessor was appointed shall hold office for the remainder of 26280
such term. Any member shall continue in office subsequent to the 26281
expiration date of ~~his~~ the member's term until ~~his~~ the member's 26282
successor takes office, or until a period of sixty days has 26283
elapsed, whichever occurs first. Members shall be qualified by 26284
experience and training to deal with the matters that are the 26285
responsibility of the commission. Two members shall be members of 26286
paid fire services, one shall be a member of volunteer fire 26287
services, two shall be mayors, managers, or members of legislative 26288
authorities of municipalities, one shall represent commerce and 26289
industry, one shall be a representative of a fire insurance 26290

company domiciled in this state, one shall represent the flammable 26291
liquids industry, one shall represent the construction industry, 26292
and one shall represent the public. At no time shall more than six 26293
members be members of or associated with the same political party. 26294
Membership on the commission shall not constitute holding a public 26295
office and no person shall forfeit or otherwise vacate ~~his~~ the 26296
person's office or position of employment because of membership on 26297
the commission. 26298

(B) The ex officio members may not vote, except that the fire 26299
marshal or ~~his~~ fire marshal's chief deputy may vote in case of a 26300
tie. 26301

(C) Each member of the commission, other than ex officio 26302
members, shall be paid an amount ~~equal to that payable under pay~~ 26303
~~range 32 (S)(D)~~ fixed pursuant to division (J) of section 124.15 26304
of the Revised Code, and ~~his~~ the member's actual and necessary 26305
expenses. 26306

(D) The commission shall select a ~~chairman~~ chairperson and a 26307
~~vice-chairman~~ vice-chairperson from among its members. No business 26308
may be transacted in the absence of a quorum. A quorum shall be at 26309
least six members, excluding ex officio members, and shall include 26310
either the ~~chairman~~ chairperson or ~~vice-chairman~~ vice-chairperson. 26311
The commission shall hold regular meetings at least once every two 26312
months and may meet at any other time at the call of the ~~chairman~~ 26313
chairperson. 26314

(E) The fire marshal shall provide the commission with office 26315
space, meeting rooms, staff, and clerical assistance necessary for 26316
the commission to perform its duties. 26317

Sec. 3745.04. (A) As used in this section, "any person" means 26318
any individual, any partnership, corporation, association, or 26319
other legal entity, or any political subdivision, instrumentality, 26320
or agency of a state, whether or not the individual or legal 26321

entity is an applicant for or holder of a license, permit, or 26322
variance from the environmental protection agency or the division 26323
of mineral resources management in the department of natural 26324
resources, and includes any department, agency, or instrumentality 26325
of the federal government that is an applicant for or holder of a 26326
license, permit, or variance from the environmental protection 26327
agency or the division of mineral resources management. 26328

As used in this section, "action" or "act" includes the 26329
adoption, modification, or repeal of a rule or standard, the 26330
issuance, modification, or revocation of any lawful order other 26331
than an emergency order, and the issuance, denial, modification, 26332
or revocation of a license, permit, lease, variance, or 26333
certificate, or the approval or disapproval of plans and 26334
specifications pursuant to law or rules adopted thereunder. 26335

(B) Any person who was a party to a proceeding before the 26336
director of environmental protection or the chief of the division 26337
of mineral resources management, except as otherwise provided in 26338
section 1509.06 or 1509.08 of the Revised Code, may participate in 26339
an appeal to the environmental review appeals commission for an 26340
order vacating or modifying the action of the director ~~or~~, a local 26341
board of health, or the chief or ordering the director ~~or~~, board 26342
of health, or chief to perform an act. The environmental review 26343
appeals commission has exclusive original jurisdiction over any 26344
matter that may, under this section, be brought before it. 26345

The person so appealing to the commission shall be known as 26346
appellant, and the director or the chief and any party to a 26347
proceeding substantially supporting the finding from which the 26348
appeal is taken shall be known as appellee, except that when an 26349
appeal involves a license to operate a disposal site or facility, 26350
the local board of health or the director of environmental 26351
protection, and any party to a proceeding substantially supporting 26352
the finding from which the appeal is taken, shall, as appropriate, 26353

be known as the appellee. Appellant and appellee shall be deemed 26354
to be parties to the appeal. 26355

The appeal shall be in writing and shall set forth the action 26356
complained of and the grounds upon which the appeal is based. 26357

~~The (C) Except as provided in division (D) of this section,~~ 26358
an appeal shall be filed with the commission within thirty days 26359
after notice of the action. Notice of the filing of the appeal 26360
shall be filed with the appellee within three days after the 26361
appeal is filed with the commission. 26362

The appeal shall be accompanied by a filing fee of sixty 26363
dollars, which the commission, in its discretion, may waive in 26364
cases of extreme hardship. 26365

Within seven days after receipt of the notice of appeal, the 26366
director or local board of health shall prepare and certify to the 26367
commission a record of the proceedings out of which the appeal 26368
arises, including all documents and correspondence, and a 26369
transcript of all testimony. 26370

Upon the filing of the appeal, the commission shall fix the 26371
time and place at which the hearing on the appeal will be held. 26372
The commission shall give the appellant and the appellee at least 26373
ten days' written notice thereof by certified mail. The commission 26374
shall hold the hearing within thirty days after the notice of 26375
appeal is filed. The commission may postpone or continue any 26376
hearing upon its own motion or upon application of the appellant 26377
or of the appellee. 26378

The filing of an appeal does not automatically suspend or 26379
stay execution of the action appealed from. Upon application by 26380
the appellant, the commission may suspend or stay the execution 26381
pending immediate determination of the appeal without interruption 26382
by continuances, other than for unavoidable circumstances. 26383

(D) If an appeal is of an action of the chief of the division 26384

of mineral resources management under Chapter 1513. or 1514. of 26385
the Revised Code, the procedures established in those chapters, as 26386
applicable, apply to the appeal in lieu of the procedures 26387
established in this section and sections 3745.05 and 3745.06 of 26388
the Revised Code. 26389

(E) As used in this section and sections 3745.05 and 3745.06 26390
of the Revised Code, "director of environmental protection" and 26391
"director" are deemed to include the director of agriculture and 26392
"environmental protection agency" is deemed to include the 26393
department of agriculture with respect to actions that are 26394
appealable to the commission under Chapter 903. of the Revised 26395
Code. 26396

Sec. 3745.11. (A) Applicants for and holders of permits, 26397
licenses, variances, plan approvals, and certifications issued by 26398
the director of environmental protection pursuant to Chapters 26399
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 26400
to the environmental protection agency for each such issuance and 26401
each application for an issuance as provided by this section. No 26402
fee shall be charged for any issuance for which no application has 26403
been submitted to the director. 26404

(B) ~~Prior to January 1, 1994, each~~ Each person who is issued 26405
~~a permit to operate, variance, or permit to install~~ prior to July 26406
1, 2003, pursuant to rules adopted under division (F) of section 26407
3704.03 of the Revised Code shall pay the fees specified in the 26408
following ~~schedule~~ schedules: 26409

(1) Fuel-Burning Equipment (boilers) 26410

Input capacity <u>(maximum)</u>	Permit		Permit	26411
(million British	to		to	26412
thermal units per hour)	operate	Variance	install	26413
<u>Greater than 0 or more, but</u>	\$ 75	\$225	\$ 100 <u>200</u>	26414
less than 10				26415

10 or more, but less than 100	210	450	390 <u>400</u>	26416
100 or more, but less than 300	270	675	585 <u>800</u>	26417
300 or more, but less than 500	330	900	780	26418
			<u>1500</u>	
500 or more, <u>but less than 1000</u>	500	975	1000	26419
			<u>2500</u>	
<u>1000 or more, but less than 5000</u>			<u>4000</u>	26420
<u>5000 or more</u>			<u>6000</u>	26421

Units burning exclusively natural gas, number two fuel oil, 26422
or both shall be assessed a fee that is one-half of the applicable 26423
amount established in division (F)(1) of this section. 26424

~~Any fuel burning equipment using only natural gas, propane,~~ 26425
~~liquefied petroleum gas, or number two or lighter fuel oil shall~~ 26426
~~be assessed a fee one half of that shown.~~ 26427

(2) Incinerators 26428

	Permit		Permit	26429
Input capacity	to		to	26430
(pounds per hour)	operate	Variance	install	26431
0 to 50 <u>100</u>	\$ 50	\$225	\$ 65 <u>100</u>	26432
51 <u>101</u> to 500	210	450	390 <u>400</u>	26433
501 to 2000	270	675	585 <u>750</u>	26434
2001 to 30,000 <u>20,000</u>	330	900	780	26435
			<u>1000</u>	
more than 30,000 <u>20,000</u>	500	975	1000	26436
			<u>2500</u>	

~~(3)~~(a) Process 26437

	Permit		Permit	26438
Process weight rate	to		to	26439
(pounds per hour)	operate	Variance	install	26440
0 to 1000	\$100	\$225	\$ 200	26441
1001 to 5000	210	450	390 <u>400</u>	26442
5001 to 10,000	270	675	585 <u>600</u>	26443

10,001 to 50,000	330	900	780 800	26444
more than 50,000	500	975	1000	26445

In any process where process weight rate cannot be 26446
ascertained, the minimum fee shall be assessed. 26447

(b) Notwithstanding division (B)(3)(a) of this section, any 26448
person issued a permit to install pursuant to rules adopted under 26449
division (F) of section 3704.03 of the Revised Code shall pay the 26450
fees established in division (B)(3)(c) of this section for a 26451
process used in any of the following industries, as identified by 26452
the applicable four-digit standard industrial classification code 26453
according to the Standard Industrial Classification Manual 26454
published by the United States office of management and budget in 26455
the executive office of the president, 1972, as revised: 26456

1211 Bituminous coal and lignite mining; 26457

1213 Bituminous coal and lignite mining services; 26458

1411 Dimension stone; 26459

1422 Crushed and broken limestone; 26460

1427 Crushed and broken stone, not elsewhere classified; 26461

1442 Construction sand and gravel; 26462

1446 Industrial sand; 26463

3281 Cut stone and stone products; 26464

3295 Minerals and earth, ground or otherwise treated. 26465

(c) The fees established in the following schedule apply to 26466
the issuance of a permit to install pursuant to rules adopted 26467
under division (F) of section 3704.03 of the Revised Code for a 26468
process listed in division (B)(3)(b) of this section: 26469

<u>Process weight rate</u>		<u>Permit to</u>	26470
<u>(pounds per hour)</u>		<u>install</u>	26471
<u>0 to 1000</u>		<u>\$ 200</u>	26472

<u>10,001 to 50,000</u>			<u>300</u>	26473
<u>50,001 to 100,000</u>			<u>400</u>	26474
<u>100,001 to 200,000</u>			<u>500</u>	26475
<u>200,001 to 400,000</u>			<u>600</u>	26476
<u>400,001 or more</u>			<u>700</u>	26477
(4) Storage tanks				26478
Gallons (<u>maximum useful</u> capacity)	Permit		Permit	26479
	to		to	26480
	operate	Variance	install	26481
				26482
Less than 40,000 <u>0 to 20,000</u>	\$150	\$225	\$ 195 <u>100</u>	26483
20,001 to 40,000 or more, but less				26484
than 100,000	210	450	390 <u>150</u>	26485
100,000 or more, but less				26486
than 400,000	270	675	585	26487
400,000 or more, but less				26488
than <u>40,001 to 100,000</u>			<u>200</u>	26489
<u>100,001 to 250,000</u>			<u>250</u>	26490
<u>250,001 to 500,000</u>			<u>350</u>	26491
<u>500,001 to 1,000,000</u>	330	900	780 <u>500</u>	26492
1,000,000 <u>1,000,001 or more greater</u>	500	975	1000 <u>750</u>	26493
(5) Gasoline				26494
Gasoline/ <u>fuel</u> dispensing	Permit		Permit	26495
facilities	to		to	26496
	operate	Variance	install	26497
For each gasoline/ <u>fuel</u>				26498
dispensing facility	\$20	\$100	\$50 <u>100</u>	26499
(6) Dry cleaning				26500
Dry cleaning	Permit		Permit	26501
facilities	to		to	26502
	operate	Variance	install	26503
For each dry cleaning				26504

facility (<u>includes all units</u>	\$50	\$200	\$100	26505
<u>at the facility)</u>				26506
(7) Coal mining operations regulated under Chapter 1513. of				26507
the Revised Code shall be assessed a fee of two hundred fifty				26508
dollars per mine or location. <u>Registration status</u>				26509
		<u>Permit</u>		26510
		<u>to</u>		26511
		<u>install</u>		26512
<u>For each source covered by registration status</u>		<u>\$75</u>		26513
(C)(1) Except as otherwise provided in division (C)(2) of				26514
this section, beginning July 1, 1994, each person who owns or				26515
operates an air contaminant source and who is required to apply				26516
for and obtain a Title V permit under section 3704.036 of the				26517
Revised Code shall pay the fees set forth in division (C)(1) of				26518
this section. For the purposes of that division, total emissions				26519
of air contaminants may be calculated using engineering				26520
calculations, emissions factors, material balance calculations, or				26521
performance testing procedures, as authorized by the director.				26522
The following fees shall be assessed on the total actual				26523
emissions from a source in tons per year of the regulated				26524
pollutants particulate matter, sulfur dioxide, nitrogen oxides,				26525
organic compounds, and lead:				26526
(a) Fifteen dollars per ton on the total actual emissions of				26527
each such regulated pollutant during the period July through				26528
December 1993, to be collected no sooner than July 1, 1994;				26529
(b) Twenty dollars per ton on the total actual emissions of				26530
each such regulated pollutant during calendar year 1994, to be				26531
collected no sooner than April 15, 1995;				26532
(c) Twenty-five dollars per ton on the total actual emissions				26533
of each such regulated pollutant in calendar year 1995, and each				26534
subsequent calendar year, to be collected no sooner than the				26535

fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred. 26536
26537

The fees levied under division (C)(1) of this section do not apply to that portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year. 26538
26539
26540

(2) The fees assessed under division (C)(1) of this section are for the purpose of providing funding for the Title V permit program. 26541
26542
26543

(3) The fees assessed under division (C)(1) of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year. 26544
26545
26546
26547
26548
26549
26550
26551
26552
26553

(4) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division (C) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice. 26554
26555
26556
26557
26558
26559
26560
26561

(D)(1) Except as provided in division (D)~~(2)~~(3) of this section, ~~beginning from~~ from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division 26562
26563
26564
26565
26566

(H), of section 3704.03 of the Revised Code; and who is not
required to apply for and obtain a Title V permit under section
3704.036 of the Revised Code shall pay a single fee based upon the
sum of the actual annual emissions from the facility of the
regulated pollutants particulate matter, sulfur dioxide, nitrogen
oxides, organic compounds, and lead in accordance with the
following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	\$ 75
50 or more, but less than 100	300
100 or more	700

(2) Except as provided in division (D)(3) of this section,
beginning January 1, 2004, each person who owns or operates an air
contaminant source; who is required to apply for a permit to
operate pursuant to rules adopted under division (G), or a
variance pursuant to division (H), of section 3704.03 of the
Revised Code; and who is not required to apply for and obtain a
Title V permit under section 3704.03 of the Revised Code shall pay
a single fee based upon the sum of the actual annual emissions
from the facility of the regulated pollutants particulate matter,
sulfur dioxide, nitrogen oxides, organic compounds, and lead in
accordance with the following schedule:

<u>Total tons per year</u> <u>of regulated pollutants</u> <u>emitted</u>	<u>Annual fee</u> <u>per facility</u>
<u>More than 0, but less than 10</u>	<u>\$ 100</u>
<u>10 or more, but less than 50</u>	<u>200</u>
<u>50 or more, but less than 100</u>	<u>300</u>
<u>100 or more</u>	<u>700</u>

(3)(a) As used in division (D) of this section, "synthetic

minor facility" means a facility for which one or more permits to 26599
install or permits to operate have been issued for the air 26600
contaminant sources at the facility that include terms and 26601
conditions that lower the facility's potential to emit air 26602
contaminants below the major source thresholds established in 26603
rules adopted under section 3704.036 of the Revised Code. 26604

(b) Beginning January 1, 2000, through June 30, ~~2004~~ 2006, 26605
each person who owns or operates a synthetic minor facility shall 26606
pay an annual fee based on the sum of the actual annual emissions 26607
from the facility of particulate matter, sulfur dioxide, nitrogen 26608
dioxide, organic compounds, and lead in accordance with the 26609
following schedule: 26610

Combined total tons 26611		
per year of all regulated 26612	Annual fee	
pollutants emitted 26613	per facility	
Less than 10 26614	\$ 170	
10 or more, but less than 20 26615	340	
20 or more, but less than 30 26616	670	
30 or more, but less than 40 26617	1,010	
40 or more, but less than 50 26618	1,340	
50 or more, but less than 60 26619	1,680	
60 or more, but less than 70 26620	2,010	
70 or more, but less than 80 26621	2,350	
80 or more, but less than 90 26622	2,680	
90 or more, but less than 100 26623	3,020	
100 or more 26624	3,350	

~~(3)~~(4) The fees assessed under division (D)(1) of this 26625
section shall be collected annually no sooner than the fifteenth 26626
day of April, commencing in 1995. The fees assessed under division 26627
(D)(2) of this section shall be collected annually no sooner than 26628
the fifteenth day of April, commencing in 2005. The fees assessed 26629
under division (D)~~(2)~~(3) of this section shall be collected no 26630

sooner than the fifteenth day of April, commencing in 2000. The 26631
fees assessed under division (D) of this section in a calendar 26632
year shall be based upon the sum of the actual emissions of those 26633
regulated pollutants during the preceding calendar year. For the 26634
purpose of division (D) of this section, emissions of air 26635
contaminants may be calculated using engineering calculations, 26636
emission factors, material balance calculations, or performance 26637
testing procedures, as authorized by the director. The director, 26638
by rule, may require persons who are required to pay the fees 26639
assessed under division (D) of this section to pay those fees 26640
biennially rather than annually. 26641

(E)(1) Consistent with the need to cover the reasonable costs 26642
of the Title V permit program, the director annually shall 26643
increase the fees prescribed in division (C)(1) of this section by 26644
the percentage, if any, by which the consumer price index for the 26645
most recent calendar year ending before the beginning of a year 26646
exceeds the consumer price index for calendar year 1989. Upon 26647
calculating an increase in fees authorized by division (E)(1) of 26648
this section, the director shall compile revised fee schedules for 26649
the purposes of division (C)(1) of this section and shall make the 26650
revised schedules available to persons required to pay the fees 26651
assessed under that division and to the public. 26652

(2) For the purposes of division (E)(1) of this section: 26653

(a) The consumer price index for any year is the average of 26654
the consumer price index for all urban consumers published by the 26655
United States department of labor as of the close of the 26656
twelve-month period ending on the thirty-first day of August of 26657
that year. 26658

(b) If the 1989 consumer price index is revised, the director 26659
shall use the revision of the consumer price index that is most 26660
consistent with that for calendar year 1989. 26661

(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after ~~January 1, 1994~~ July 1, 2003, shall pay the fees specified in the following schedules:

(1) <u>Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)</u>		26666
Input capacity (maximum)		26667
(million British thermal units per hour)	Permit to install	26668
Greater than 0, but less than 10	\$ 200	26669
10 or more, but less than 100	400	26670
100 or more, but less than 300	800 <u>1000</u>	26671
300 or more, but less than 500	1500 <u>2250</u>	26672
500 or more, but less than 1000	2500 <u>3750</u>	26673
1000 or more, but less than 5000	4000 <u>6000</u>	26674
5000 or more	6000 <u>9000</u>	26675

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) <u>Combustion turbines and stationary internal combustion engines designed to generate electricity</u>		26681
<u>Generating capacity (mega watts)</u>	<u>Permit to install</u>	26682
<u>0 or more, but less than 10</u>	<u>\$ 25</u>	26683
<u>10 or more, but less than 25</u>	<u>150</u>	26684
<u>25 or more, but less than 50</u>	<u>300</u>	26685
<u>50 or more, but less than 100</u>	<u>500</u>	26686
<u>100 or more, but less than 250</u>	<u>1000</u>	26687
<u>250 or more</u>	<u>2000</u>	26688

(3) Incinerators		26689
Input capacity (pounds per hour)	Permit to install	26690
0 to 100	\$ 100	26691

101 to 500	400 <u>500</u>	26693
501 to 2000	750 <u>1000</u>	26694
2001 to 20,000	1000 <u>1500</u>	26695
more than 20,000	2500 <u>3750</u>	26696

~~(3)~~(4)(a) Process 26697

Process weight rate (pounds per hour)	Permit to install	26698
0 to 1000	\$ 200	26699
1001 to 5000	400 <u>500</u>	26700
5001 to 10,000	600 <u>750</u>	26701
10,001 to 50,000	800 <u>1000</u>	26702
more than 50,000	1000 <u>1250</u>	26703

In any process where process weight rate cannot be 26704
ascertained, the minimum fee shall be assessed. A boiler, furnace, 26705
combustion turbine, stationary internal combustion engine, or 26706
process heater designed to provide direct heat or power to a 26707
process not designed to generate electricity shall be assessed a 26708
fee established in division (F)(4)(a) of this section. A 26709
combustion turbine or stationary internal combustion engine 26710
designed to generate electricity shall be assessed a fee 26711
established in division (F)(2) of this section. 26712

(b) Notwithstanding division (F)(3)(a) of this section, any 26713
person issued a permit to install pursuant to rules adopted under 26714
division (F) of section 3704.03 of the Revised Code shall pay the 26715
fees set forth in division (F)(3)(c) of this section for a process 26716
used in any of the following industries, as identified by the 26717
applicable four-digit standard industrial classification code 26718
according to the Standard Industrial Classification Manual 26719
published by the United States office of management and budget in 26720
the executive office of the president, 1972, as revised: 26721

1211 Bituminous coal and lignite mining; 26722

1213 Bituminous coal and lignite mining services; 26723

1411 Dimension stone;	26724
1422 Crushed and broken limestone;	26725
1427 Crushed and broken stone, not elsewhere classified;	26726
1442 Construction sand and gravel;	26727
1446 Industrial sand;	26728
3281 Cut stone and stone products;	26729
3295 Minerals and earth, ground or otherwise treated.	26730

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process identified in division (F)(3)(b) of this section:

Gallons (maximum useful capacity)	Process weight rate	Permit to install	
<u>(pounds per hour)</u>			
0 to 20,000 <u>10,000</u>		\$ 100 <u>200</u>	26737
20,001 <u>10,001</u> to 40,000	50,000	150 <u>400</u>	26738
40,001 <u>50,001</u> to 100,000		200 <u>500</u>	26739
100,001 to 250,000 <u>200,000</u>		250 <u>600</u>	26740
250,001 <u>200,001</u> to 500,000	400,000	350 <u>750</u>	26741
500,001 to 1,000,000		500	26742
1,000,001 <u>400,001</u> or greater	more	750 <u>900</u>	26743

~~(4)~~(5) Storage tanks 26744

Gallons (maximum useful capacity)	Permit to install	
0 to 20,000	\$ 100	26746
20,001 to 40,000	150	26747
40,001 to 100,000	200 <u>250</u>	26748
100,001 to 250,000	250	26749
250,001 to 500,000	350 <u>400</u>	26750
500,001 to 1,000,000	500	26751
1,000,001 or greater	750	26752

(5) (6) Gasoline/fuel dispensing facilities		26753
For each gasoline/fuel	Permit to install	26754
dispensing facility (<u>includes all</u>	\$ 100	26755
<u>units at the facility</u>)		
(6) (7) Dry cleaning facilities		26756
For each dry cleaning		26757
facility (includes all units	Permit to install	26758
at the facility)	\$ 100	26759
(7) (8) Registration status		26760
For each source covered	Permit to install	26761
by registration status	\$ 75	26762
(G) An owner or operator who is responsible for an asbestos		26763
demolition or renovation project pursuant to rules adopted under		26764
section 3704.03 of the Revised Code shall pay the fees set forth		26765
in the following schedule:		26766
Action	Fee	26767
Each notification	\$75	26768
Asbestos removal	\$3/unit	26769
Asbestos cleanup	\$4/cubic yard	26770
For purposes of this division, "unit" means any combination of		26771
linear feet or square feet equal to fifty.		26772
(H) A person who is issued an extension of time for a permit		26773
to install an air contaminant source pursuant to rules adopted		26774
under division (F) of section 3704.03 of the Revised Code shall		26775
pay a fee equal to one-half the fee originally assessed for the		26776
permit to install under this section, except that the fee for such		26777
an extension shall not exceed two hundred dollars.		26778
(I) A person who is issued a modification to a permit to		26779
install an air contaminant source pursuant to rules adopted under		26780
section 3704.03 of the Revised Code shall pay a fee equal to		26781
one-half of the fee that would be assessed under this section to		26782

obtain a permit to install the source. The fee assessed by this 26783
division only applies to modifications that are initiated by the 26784
owner or operator of the source and shall not exceed two thousand 26785
dollars. 26786

(J) Notwithstanding division (B) or (F) of this section, a 26787
person who applies for or obtains a permit to install pursuant to 26788
rules adopted under division (F) of section 3704.03 of the Revised 26789
Code after the date actual construction of the source began shall 26790
pay a fee for the permit to install that is equal to twice the fee 26791
that otherwise would be assessed under the applicable division 26792
unless the applicant received authorization to begin construction 26793
under division (W) of section 3704.03 of the Revised Code. This 26794
division only applies to sources for which actual construction of 26795
the source begins on or after July 1, 1993. The imposition or 26796
payment of the fee established in this division does not preclude 26797
the director from taking any administrative or judicial 26798
enforcement action under this chapter, Chapter 3704., 3714., 26799
3734., or 6111. of the Revised Code, or a rule adopted under any 26800
of them, in connection with a violation of rules adopted under 26801
division (F) of section 3704.03 of the Revised Code. 26802

As used in this division, "actual construction of the source" 26803
means the initiation of physical on-site construction activities 26804
in connection with improvements to the source that are permanent 26805
in nature, including, without limitation, the installation of 26806
building supports and foundations and the laying of underground 26807
pipework. 26808

(K) Fifty cents per ton of each fee assessed under division 26809
(C) of this section on actual emissions from a source and received 26810
by the environmental protection agency pursuant to that division 26811
shall be deposited into the state treasury to the credit of the 26812
small business assistance fund created in section 3706.19 of the 26813
Revised Code. The remainder of the moneys received by the division 26814

pursuant to that division and moneys received by the agency 26815
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 26816
section shall be deposited in the state treasury to the credit of 26817
the clean air fund created in section 3704.035 of the Revised 26818
Code. 26819

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 26820
or (c) of this section, a person issued a water discharge permit 26821
or renewal of a water discharge permit pursuant to Chapter 6111. 26822
of the Revised Code shall pay a fee based on each point source to 26823
which the issuance is applicable in accordance with the following 26824
schedule: 26825

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	26827
1,001 to 5000	100	26828
5,001 to 50,000	200	26829
50,001 to 100,000	300	26830
100,001 to 300,000	525	26831
over 300,000	750	26832

(b) Notwithstanding the fee schedule specified in division 26833
(L)(1)(a) of this section, the fee for a water discharge permit 26834
that is applicable to coal mining operations regulated under 26835
Chapter 1513. of the Revised Code shall be two hundred fifty 26836
dollars per mine. 26837

(c) Notwithstanding the fee schedule specified in division 26838
(L)(1)(a) of this section, the fee for a water discharge permit 26839
for a public discharger identified by I in the third character of 26840
the permittee's NPDES permit number shall not exceed seven hundred 26841
fifty dollars. 26842

(2) A person applying for a plan approval for a wastewater 26843
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 26844
of the Revised Code shall pay a fee of one hundred dollars plus 26845
sixty-five one-hundredths of one per cent of the estimated project 26846

cost through June 30, ~~2004~~ 2006, and one hundred dollars plus 26847
two-tenths of one per cent of the estimated project cost on and 26848
after July 1, ~~2004~~ 2006, except that the total fee shall not 26849
exceed fifteen thousand dollars through June 30, ~~2004~~ 2006, and 26850
five thousand dollars on and after July 1, ~~2004~~ 2006. The fee 26851
shall be paid at the time the application is submitted. 26852

(3) A person issued a modification of a water discharge 26853
permit shall pay a fee equal to one-half the fee that otherwise 26854
would be charged for a water discharge permit, except that the fee 26855
for the modification shall not exceed four hundred dollars. 26856

(4) A person who has entered into an agreement with the 26857
director under section 6111.14 of the Revised Code shall pay an 26858
administrative service fee for each plan submitted under that 26859
section for approval that shall not exceed the minimum amount 26860
necessary to pay administrative costs directly attributable to 26861
processing plan approvals. The director annually shall calculate 26862
the fee and shall notify all persons who have entered into 26863
agreements under that section, or who have applied for agreements, 26864
of the amount of the fee. 26865

(5)(a)(i) Not later than January 30, ~~2002~~ 2004, and January 26866
30, ~~2003~~ 2005, a person holding an NPDES discharge permit issued 26867
pursuant to Chapter 6111. of the Revised Code with an average 26868
daily discharge flow of five thousand gallons or more shall pay a 26869
nonrefundable annual discharge fee. Any person who fails to pay 26870
the fee at that time shall pay an additional amount that equals 26871
ten per cent of the required annual discharge fee. 26872

(ii) The billing year for the annual discharge fee 26873
established in division (L)(5)(a)(i) of this section shall consist 26874
of a twelve-month period beginning on the first day of January of 26875
the year preceding the date when the annual discharge fee is due. 26876
In the case of an existing source that permanently ceases to 26877
discharge during a billing year, the director shall reduce the 26878

annual discharge fee, including the surcharge applicable to 26879
certain industrial facilities pursuant to division (L)(5)(c) of 26880
this section, by one-twelfth for each full month during the 26881
billing year that the source was not discharging, but only if the 26882
person holding the NPDES discharge permit for the source notifies 26883
the director in writing, not later than the first day of October 26884
of the billing year, of the circumstances causing the cessation of 26885
discharge. 26886

(iii) The annual discharge fee established in division 26887
(L)(5)(a)(i) of this section, except for the surcharge applicable 26888
to certain industrial facilities pursuant to division (L)(5)(c) of 26889
this section, shall be based upon the average daily discharge flow 26890
in gallons per day calculated using first day of May through 26891
thirty-first day of October flow data for the period two years 26892
prior to the date on which the fee is due. In the case of NPDES 26893
discharge permits for new sources, the fee shall be calculated 26894
using the average daily design flow of the facility until actual 26895
average daily discharge flow values are available for the time 26896
period specified in division (L)(5)(a)(iii) of this section. The 26897
annual discharge fee may be prorated for a new source as described 26898
in division (L)(5)(a)(ii) of this section. 26899

(b) An NPDES permit holder that is a public discharger shall 26900
pay the fee specified in the following schedule: 26901

Average daily	Fee due by	
discharge flow	January 30,	
	2002 <u>2004</u> , and	26904
	January 30, 2003	26905
	<u>2005</u>	
5,000 to 49,999	\$ 200	26906
50,000 to 100,000	500	26907
100,001 to 250,000	1,050	26908
250,001 to 1,000,000	2,600	26909

1,000,001 to 5,000,000	5,200	26910
5,000,001 to 10,000,000	10,350	26911
10,000,001 to 20,000,000	15,550	26912
20,000,001 to 50,000,000	25,900	26913
50,000,001 to 100,000,000	41,400	26914
100,000,001 or more	62,100	26915

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2002 <u>2004</u> , and January 30, 2003 <u>2005</u>	
5,000 to 49,999	\$ 250	26932
50,000 to 250,000	1,200	26933
250,001 to 1,000,000	2,950	26934
1,000,001 to 5,000,000	5,850	26935
5,000,001 to 10,000,000	8,800	26936
10,000,001 to 20,000,000	11,700	26937
20,000,001 to 100,000,000	14,050	26938
100,000,001 to 250,000,000	16,400	26939
250,000,001 or more	18,700	26940

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2002~~ 2004, and not later than January 30, ~~2003~~ 2005. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2002~~ 2004, and not later than January 30, ~~2003~~ 2005. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(6) of this section shall pay an additional amount per year equal to ten per cent of the annual fee that is unpaid.

(7) The director shall transmit all moneys collected under division (L) of this section to the treasurer of state for deposit into the state treasury to the credit of the surface water

protection fund created in section 6111.038 of the Revised Code.	26973
(8) As used in division (L) of this section:	26974
(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.	26975 26976 26977 26978 26979
(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.	26980 26981 26982
(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.	26983 26984 26985
(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.	26986 26987 26988 26989
(M) Through June 30, 2004 <u>2006</u> , a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.	26990 26991 26992 26993 26994 26995 26996 26997 26998 26999
Fees required under this division shall be calculated and paid in accordance with the following schedule:	27000 27001
(1) For the initial license required under division (A)(1) of	27002

section 6109.21 of the Revised Code for any public water system 27003
that is a community water system as defined in section 6109.01 of 27004
the Revised Code, and for each license renewal required for such a 27005
system prior to January 31, ~~2004~~ 2006, the fee is: 27006

Number of service connections	Fee amount	
Not more than 49	\$56 <u>112</u>	27008
50 to 99	88 <u>176</u>	27009

Number of service connections	Average cost per connection	
100 to 2,499	\$.96 <u>1.92</u>	27011
2,500 to 4,999	.92 <u>1.60</u>	27012
5,000 to 7,499	.88 <u>1.54</u>	27013
7,500 to 9,999	.84 <u>1.48</u>	27014
10,000 to 14,999	.80 <u>1.28</u>	27015
15,000 to 24,999	.76 <u>1.22</u>	27016
25,000 to 49,999	.72 <u>1.16</u>	27017
50,000 to 99,999	.68 <u>.92</u>	27018
100,000 to 149,999	.64 <u>.86</u>	27019
150,000 to 199,999	.60 <u>.80</u>	27020
200,000 or more	.56 <u>.76</u>	27021

A public water system may determine how it will pay the total 27022
amount of the fee calculated under division (M)(1) of this 27023
section, including the assessment of additional user fees that may 27024
be assessed on a volumetric basis. 27025

As used in division (M)(1) of this section, "service 27026
connection" means the number of active or inactive pipes, 27027
goosenecks, pigtails, and any other fittings connecting a water 27028
main to any building outlet. 27029

(2) For the initial license required under division (A)(2) of 27030
section 6109.21 of the Revised Code for any public water system 27031
that is not a community water system and serves a nontransient 27032
population, and for each license renewal required for such a 27033
system prior to January 31, ~~2004~~ 2006, the fee is: 27034

Population served	Fee amount	
Fewer than 150	\$ 56 <u>112</u>	27036
150 to 299	88 <u>176</u>	27037
300 to 749	192 <u>384</u>	27038
750 to 1,499	392 <u>686</u>	27039
1,500 to 2,999	792 <u>1,386</u>	27040
3,000 to 7,499	1,760 <u>3,080</u>	27041
7,500 to 14,999	3,800 <u>6,270</u>	27042
15,000 to 22,499	6,240 <u>10,296</u>	27043
22,500 to 29,999	8,576 <u>14,150</u>	27044
30,000 or more	11,600 <u>19,140</u>	27045

As used in division (M)(2) of this section, "population served" means the total number of individuals receiving water from the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2004~~ 2006, the fee is:

Number of wells supplying system	Fee amount	
1	\$ 56 <u>112</u>	27058
2	56 <u>112</u>	27059
3	88 <u>176</u>	27060
4	192 <u>316</u>	27061
5	392 <u>646</u>	27062
System supplied by surface water, springs, or dug wells	792 <u>1,300</u>	27064

As used in division (M)(3) of this section, "number of wells supplying system" means those wells that are physically connected

to the plumbing system serving the public water system. 27067

(N)(1) A person applying for a plan approval for a public 27068
water supply system under section 6109.07 of the Revised Code 27069
shall pay a fee of one hundred fifty dollars plus ~~two tenths~~ 27070
thirty-five hundredths of one per cent of the estimated project 27071
cost, except that the total fee shall not exceed ~~fifteen~~ twenty 27072
thousand dollars through June 30, ~~2004~~ 2006, and ~~five~~ fifteen 27073
thousand dollars on and after July 1, ~~2004~~ 2006. The fee shall be 27074
paid at the time the application is submitted. 27075

(2) A person who has entered into an agreement with the 27076
director under division (A)(2) of section 6109.07 of the Revised 27077
Code shall pay an administrative service fee for each plan 27078
submitted under that section for approval that shall not exceed 27079
the minimum amount necessary to pay administrative costs directly 27080
attributable to processing plan approvals. The director annually 27081
shall calculate the fee and shall notify all persons that have 27082
entered into agreements under that division, or who have applied 27083
for agreements, of the amount of the fee. 27084

(3) Through June 30, ~~2004~~ 2006, the following fee, on a per 27085
survey basis, shall be charged any person for services rendered by 27086
the state in the evaluation of laboratories and laboratory 27087
personnel for compliance with accepted analytical techniques and 27088
procedures established pursuant to Chapter 6109. of the Revised 27089
Code for determining the qualitative characteristics of water: 27090

microbiological	\$1,650	27091
<u>MMO-MUG</u>	<u>\$2,000</u>	27092
<u>MF</u>	<u>2,100</u>	27093
<u>MMO-MUG and MF</u>	<u>2,550</u>	27094
organic chemical	3,500 <u>5,400</u>	27095
inorganic chemical	3,500 <u>5,400</u>	27096
standard chemistry	1,800 <u>2,800</u>	27097
limited chemistry	1,000 <u>1,550</u>	27098

On and after July 1, ~~2004~~ 2006, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$ 250 <u>1,650</u>	27101
chemical/radiological	250 <u>3,500</u>	27102
nitrate/turbidity (only)	150 <u>1,000</u>	27103

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2004~~ 2006, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

(a) "MF" means microfiltration.

(b) "MMO" means minimal medium ONPG.

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director for examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of ~~twenty-five~~ forty-five dollars through June 30, ~~2004~~ 2006, and ~~ten~~ twenty-five dollars on and after July 1, ~~2004~~ 2006. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through June 30,

2004 2006 :		27129
<u>Class A operator</u>	\$45	27130
Class I operator	\$45 75	27131
Class II operator	55 95	27132
Class III operator	65 110	27133
Class IV operator	75 125	27134

On and after July 1, ~~2004~~ 2006, the applicant shall pay a fee 27135
in accordance with the following schedule: 27136

<u>Class A operator</u>	\$25	27137
Class I operator	\$25 45	27138
Class II operator	35 55	27139
Class III operator	45 65	27140
Class IV operator	55 75	27141

A person shall pay a biennial certification renewal fee for 27142
each applicable class of certification in accordance with the 27143
following schedule: 27144

<u>Class A operator</u>	\$25	27145
<u>Class I operator</u>	35	27146
<u>Class II operator</u>	45	27147
<u>Class III operator</u>	55	27148
<u>Class IV operator</u>	65	27149

If a certification renewal fee is received by the director 27150
more than thirty days, but not more than one year after the 27151
expiration date of the certification, the person shall pay a 27152
certification renewal fee in accordance with the following 27153
schedule: 27154

<u>Class A operator</u>	\$45	27155
<u>Class I operator</u>	55	27156
<u>Class II operator</u>	65	27157
<u>Class III operator</u>	75	27158
<u>Class IV operator</u>	85	27159

A person who requests a replacement certificate shall pay a 27160

fee of twenty-five dollars at the time the request is made. 27161

The director shall transmit all moneys collected under this 27162
division to the treasurer of state for deposit into the drinking 27163
water protection fund created in section 6109.30 of the Revised 27164
Code. 27165

(P) ~~Through June 30, 2004, any~~ Any person submitting an 27166
application for an industrial water pollution control certificate 27167
under section 6111.31 of the Revised Code before the effective 27168
date of the amendment of this section by . B. of the 125th 27169
general assembly shall pay a nonrefundable fee of five hundred 27170
dollars at the time the application is submitted. The director 27171
shall transmit all moneys collected under this division to the 27172
treasurer of state for deposit into the surface water protection 27173
fund created in section 6111.038 of the Revised Code. A person 27174
paying a certificate fee under this division shall not pay an 27175
application fee under division (S)(1) of this section. On and 27176
after that effective date, persons shall file such applications 27177
and pay the fee as required under sections 5709.20 to 5709.27 of 27178
the Revised Code, and proceeds from the fee shall be credited as 27179
provided in section 5709.212 of the Revised Code. 27180

(Q) Except as otherwise provided in division (R) of this 27181
section, a person issued a permit by the director for a new solid 27182
waste disposal facility other than an incineration or composting 27183
facility, a new infectious waste treatment facility other than an 27184
incineration facility, or a modification of such an existing 27185
facility that includes an increase in the total disposal or 27186
treatment capacity of the facility pursuant to Chapter 3734. of 27187
the Revised Code shall pay a fee of ten dollars per thousand cubic 27188
yards of disposal or treatment capacity, or one thousand dollars, 27189
whichever is greater, except that the total fee for any such 27190
permit shall not exceed eighty thousand dollars. A person issued a 27191
modification of a permit for a solid waste disposal facility or an 27192

infectious waste treatment facility that does not involve an 27193
increase in the total disposal or treatment capacity of the 27194
facility shall pay a fee of one thousand dollars. A person issued 27195
a permit to install a new, or modify an existing, solid waste 27196
transfer facility under that chapter shall pay a fee of two 27197
thousand five hundred dollars. A person issued a permit to install 27198
a new or to modify an existing solid waste incineration or 27199
composting facility, or an existing infectious waste treatment 27200
facility using incineration as its principal method of treatment, 27201
under that chapter shall pay a fee of one thousand dollars. The 27202
increases in the permit fees under this division resulting from 27203
the amendments made by Amended Substitute House Bill 592 of the 27204
117th general assembly do not apply to any person who submitted an 27205
application for a permit to install a new, or modify an existing, 27206
solid waste disposal facility under that chapter prior to 27207
September 1, 1987; any such person shall pay the permit fee 27208
established in this division as it existed prior to June 24, 1988. 27209
In addition to the applicable permit fee under this division, a 27210
person issued a permit to install or modify a solid waste facility 27211
or an infectious waste treatment facility under that chapter who 27212
fails to pay the permit fee to the director in compliance with 27213
division (V) of this section shall pay an additional ten per cent 27214
of the amount of the fee for each week that the permit fee is 27215
late. 27216

Permit and late payment fees paid to the director under this 27217
division shall be credited to the general revenue fund. 27218

(R)(1) A person issued a registration certificate for a scrap 27219
tire collection facility under section 3734.75 of the Revised Code 27220
shall pay a fee of two hundred dollars, except that if the 27221
facility is owned or operated by a motor vehicle salvage dealer 27222
licensed under Chapter 4738. of the Revised Code, the person shall 27223
pay a fee of twenty-five dollars. 27224

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted.

Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the application is submitted through June 30, ~~2004~~ 2006, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, ~~2004~~ 2006. Through June 30, ~~2004~~ 2006, any person applying for a national pollutant discharge elimination system permit under Chapter 6111. of the Revised Code shall pay a nonrefundable fee of two hundred dollars at the time of application for the permit. On and after July 1, ~~2004~~ 2006, such a person shall pay a nonrefundable fee of fifteen dollars at the time of application.

In addition to the application fee established under division (S)(1) of this section, any person applying for a national pollutant discharge elimination system general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition, any

person applying for a national pollutant discharge elimination system general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable.

If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay the applicable application fee as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid.

(2) Division (S)(1) of this section does not apply to an

application for a registration certificate for a scrap tire 27319
collection or storage facility submitted under section 3734.75 or 27320
3734.76 of the Revised Code, as applicable, if the owner or 27321
operator of the facility or proposed facility is a motor vehicle 27322
salvage dealer licensed under Chapter 4738. of the Revised Code. 27323

(T) The director may adopt, amend, and rescind rules in 27324
accordance with Chapter 119. of the Revised Code that do all of 27325
the following: 27326

(1) Prescribe fees to be paid by applicants for and holders 27327
of any license, permit, variance, plan approval, or certification 27328
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 27329
the Revised Code that are not specifically established in this 27330
section. The fees shall be designed to defray the cost of 27331
processing, issuing, revoking, modifying, denying, and enforcing 27332
the licenses, permits, variances, plan approvals, and 27333
certifications. 27334

The director shall transmit all moneys collected under rules 27335
adopted under division (T)(1) of this section pursuant to Chapter 27336
6109. of the Revised Code to the treasurer of state for deposit 27337
into the drinking water protection fund created in section 6109.30 27338
of the Revised Code. 27339

The director shall transmit all moneys collected under rules 27340
adopted under division (T)(1) of this section pursuant to Chapter 27341
6111. of the Revised Code to the treasurer of state for deposit 27342
into the surface water protection fund created in section 6111.038 27343
of the Revised Code. 27344

(2) Exempt the state and political subdivisions thereof, 27345
including education facilities or medical facilities owned by the 27346
state or a political subdivision, or any person exempted from 27347
taxation by section 5709.07 or 5709.12 of the Revised Code, from 27348
any fee required by this section; 27349

(3) Provide for the waiver of any fee, or any part thereof, 27350
otherwise required by this section whenever the director 27351
determines that the imposition of the fee would constitute an 27352
unreasonable cost of doing business for any applicant, class of 27353
applicants, or other person subject to the fee; 27354

(4) Prescribe measures that the director considers necessary 27355
to carry out this section. 27356

(U) When the director reasonably demonstrates that the direct 27357
cost to the state associated with the issuance of a permit to 27358
install, license, variance, plan approval, or certification 27359
exceeds the fee for the issuance or review specified by this 27360
section, the director may condition the issuance or review on the 27361
payment by the person receiving the issuance or review of, in 27362
addition to the fee specified by this section, the amount, or any 27363
portion thereof, in excess of the fee specified under this 27364
section. The director shall not so condition issuances for which 27365
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 27366
section. 27367

(V) Except as provided in divisions (L), (M), and (P) of this 27368
section or unless otherwise prescribed by a rule of the director 27369
adopted pursuant to Chapter 119. of the Revised Code, all fees 27370
required by this section are payable within thirty days after the 27371
issuance of an invoice for the fee by the director or the 27372
effective date of the issuance of the license, permit, variance, 27373
plan approval, or certification. If payment is late, the person 27374
responsible for payment of the fee shall pay an additional ten per 27375
cent of the amount due for each month that it is late. 27376

(W) As used in this section, "fuel-burning equipment," 27377
"fuel-burning equipment input capacity," "incinerator," 27378
"incinerator input capacity," "process," "process weight rate," 27379
"storage tank," "gasoline dispensing facility," "dry cleaning 27380

facility," "design flow discharge," and "new source treatment 27381
works" have the meanings ascribed to those terms by applicable 27382
rules or standards adopted by the director under Chapter 3704. or 27383
6111. of the Revised Code. 27384

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 27385
and (J) of this section, and in any other provision of this 27386
section pertaining to fees paid pursuant to Chapter 3704. of the 27387
Revised Code: 27388

(1) "Facility," "federal Clean Air Act," "person," and "Title 27389
V permit" have the same meanings as in section 3704.01 of the 27390
Revised Code. 27391

(2) "Title V permit program" means the following activities 27392
as necessary to meet the requirements of Title V of the federal 27393
Clean Air Act and 40 C.F.R. part 70, including at least: 27394

(a) Preparing and adopting, if applicable, generally 27395
applicable rules or guidance regarding the permit program or its 27396
implementation or enforcement; 27397

(b) Reviewing and acting on any application for a Title V 27398
permit, permit revision, or permit renewal, including the 27399
development of an applicable requirement as part of the processing 27400
of a permit, permit revision, or permit renewal; 27401

(c) Administering the permit program, including the 27402
supporting and tracking of permit applications, compliance 27403
certification, and related data entry; 27404

(d) Determining which sources are subject to the program and 27405
implementing and enforcing the terms of any Title V permit, not 27406
including any court actions or other formal enforcement actions; 27407

(e) Emission and ambient monitoring; 27408

(f) Modeling, analyses, or demonstrations; 27409

(g) Preparing inventories and tracking emissions; 27410

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.

(2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following exceptions:

(i) Except as provided in division (Y)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of

exceptional quality sludge shall not be required to pay the annual 27442
sludge fee for treatment or disposal in this state of exceptional 27443
quality sludge generated outside of this state and contained in 27444
bags or other containers not greater than one hundred pounds in 27445
capacity. 27446

A thirty-five per cent reduction for exceptional quality 27447
sludge applies to the maximum annual fees established under 27448
division (Y)(3) of this section. 27449

(c) A sewage sludge facility that transfers sewage sludge to 27450
another sewage sludge facility in this state for further treatment 27451
prior to disposal in this state shall not be required to pay the 27452
annual sludge fee for the tons of sewage sludge that have been 27453
transferred. In such a case, the sewage sludge facility that 27454
disposes of the sewage sludge shall pay the annual sludge fee. 27455
However, the facility transferring the sewage sludge shall pay the 27456
one-hundred-dollar minimum fee required under division (Y)(2)(a) 27457
of this section. 27458

In the case of a sewage sludge facility that treats sewage 27459
sludge in this state and transfers it out of this state to another 27460
entity for disposal, the sewage sludge facility in this state 27461
shall be required to pay the annual sludge fee for the tons of 27462
sewage sludge that have been transferred. 27463

(d) A sewage sludge facility that generates sewage sludge 27464
resulting from an average daily discharge flow of less than five 27465
thousand gallons per day is not subject to the fees assessed under 27466
division (Y) of this section. 27467

(3) No sewage sludge facility required to pay the annual 27468
sludge fee shall be required to pay more than the maximum annual 27469
fee for each disposal method that the sewage sludge facility uses. 27470
The maximum annual fee does not include the additional amount that 27471
may be charged under division (Y)(5) of this section for late 27472

payment of the annual sludge fee. The maximum annual fee for the 27473
following methods of disposal of sewage sludge is as follows: 27474

(a) Incineration: five thousand dollars; 27475

(b) Preexisting land reclamation project or disposal in a 27476
landfill: five thousand dollars; 27477

(c) Land application, land reclamation, surface disposal, or 27478
any other disposal method not specified in division (Y)(3)(a) or 27479
(b) of this section: twenty thousand dollars. 27480

(4)(a) In the case of an entity that generates sewage sludge 27481
or a sewage sludge facility that treats sewage sludge and 27482
transfers the sewage sludge to an incineration facility for 27483
disposal, the incineration facility, and not the entity generating 27484
the sewage sludge or the sewage sludge facility treating the 27485
sewage sludge, shall pay the annual sludge fee for the tons of 27486
sewage sludge that are transferred. However, the entity or 27487
facility generating or treating the sewage sludge shall pay the 27488
one-hundred-dollar minimum fee required under division (Y)(2)(a) 27489
of this section. 27490

(b) In the case of an entity that generates sewage sludge and 27491
transfers the sewage sludge to a landfill for disposal or to a 27492
sewage sludge facility for land reclamation or surface disposal, 27493
the entity generating the sewage sludge, and not the landfill or 27494
sewage sludge facility, shall pay the annual sludge fee for the 27495
tons of sewage sludge that are transferred. 27496

(5) Not later than the first day of April of the calendar 27497
year following March 17, 2000, and each first day of April 27498
thereafter, the director shall issue invoices to persons who are 27499
required to pay the annual sludge fee. The invoice shall identify 27500
the nature and amount of the annual sludge fee assessed and state 27501
the first day of May as the deadline for receipt by the director 27502
of objections regarding the amount of the fee and the first day of 27503

July as the deadline for payment of the fee. 27504

Not later than the first day of May following receipt of an 27505
invoice, a person required to pay the annual sludge fee may submit 27506
objections to the director concerning the accuracy of information 27507
regarding the number of dry tons of sewage sludge used to 27508
calculate the amount of the annual sludge fee or regarding whether 27509
the sewage sludge qualifies for the exceptional quality sludge 27510
discount established in division (Y)(2)(b) of this section. The 27511
director may consider the objections and adjust the amount of the 27512
fee to ensure that it is accurate. 27513

If the director does not adjust the amount of the annual 27514
sludge fee in response to a person's objections, the person may 27515
appeal the director's determination in accordance with Chapter 27516
119. of the Revised Code. 27517

Not later than the first day of June, the director shall 27518
notify the objecting person regarding whether the director has 27519
found the objections to be valid and the reasons for the finding. 27520
If the director finds the objections to be valid and adjusts the 27521
amount of the annual sludge fee accordingly, the director shall 27522
issue with the notification a new invoice to the person 27523
identifying the amount of the annual sludge fee assessed and 27524
stating the first day of July as the deadline for payment. 27525

Not later than the first day of July, any person who is 27526
required to do so shall pay the annual sludge fee. Any person who 27527
is required to pay the fee, but who fails to do so on or before 27528
that date shall pay an additional amount that equals ten per cent 27529
of the required annual sludge fee. 27530

(6) The director shall transmit all moneys collected under 27531
division (Y) of this section to the treasurer of state for deposit 27532
into the surface water protection fund created in section 6111.038 27533
of the Revised Code. The moneys shall be used to defray the costs 27534

of administering and enforcing provisions in Chapter 6111. of the 27535
Revised Code and rules adopted under it that govern the use, 27536
storage, treatment, or disposal of sewage sludge. 27537

(7) Beginning in fiscal year 2001, and every two years 27538
thereafter, the director shall review the total amount of moneys 27539
generated by the annual sludge fees to determine if that amount 27540
exceeded six hundred thousand dollars in either of the two 27541
preceding fiscal years. If the total amount of moneys in the fund 27542
exceeded six hundred thousand dollars in either fiscal year, the 27543
director, after review of the fee structure and consultation with 27544
affected persons, shall issue an order reducing the amount of the 27545
fees levied under division (Y) of this section so that the 27546
estimated amount of moneys resulting from the fees will not exceed 27547
six hundred thousand dollars in any fiscal year. 27548

If, upon review of the fees under division (Y)(7) of this 27549
section and after the fees have been reduced, the director 27550
determines that the total amount of moneys collected and 27551
accumulated is less than six hundred thousand dollars, the 27552
director, after review of the fee structure and consultation with 27553
affected persons, may issue an order increasing the amount of the 27554
fees levied under division (Y) of this section so that the 27555
estimated amount of moneys resulting from the fees will be 27556
approximately six hundred thousand dollars. Fees shall never be 27557
increased to an amount exceeding the amount specified in division 27558
(Y)(7) of this section. 27559

Notwithstanding section 119.06 of the Revised Code, the 27560
director may issue an order under division (Y)(7) of this section 27561
without the necessity to hold an adjudicatory hearing in 27562
connection with the order. The issuance of an order under this 27563
division is not an act or action for purposes of section 3745.04 27564
of the Revised Code. 27565

(8) As used in division (Y) of this section: 27566

- (a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge. 27567
27568
- (b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. 27569
27570
27571
"Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage. 27572
27573
27574
27575
27576
27577
27578
- (c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications: 27579
27580
- (i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a); 27581
27582
- (ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 27583
27584
- (iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13; 27585
27586
- (iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13. 27587
27588
- (d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge. 27589
27590
27591
- (e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator. 27592
27593
27594
- (f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage 27595
27596

sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.

(g) "Land reclamation" means the returning of disturbed land to productive use.

(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.

(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.

(k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section.

(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under section 3734.05 of the Revised Code.

(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.

Sec. 3745.14. (A) As used in this section:

(1) "Compliance review" means the review of an application

for a permit, renewal of a permit, or plan approval, or 27627
modification thereof, for an existing or proposed facility, 27628
source, or activity and the accompanying engineering plans, 27629
specifications, and materials and information that are submitted 27630
under Chapter 3704., 3734., 6109., or 6111. of the Revised Code 27631
and rules adopted under them for compliance with performance 27632
standards under the applicable chapter and rules adopted under it. 27633
"Compliance review" does not include the review of an application 27634
for a hazardous waste facility installation and operation permit 27635
or the renewal or modification of such a permit, a permit to 27636
establish or modify an infectious waste treatment facility, a 27637
permit to install a solid waste incineration facility that also 27638
would treat infectious wastes, or a permit to modify a solid waste 27639
incineration facility to also treat infectious wastes under 27640
Chapter 3734. of the Revised Code. 27641

(2) "Engineer" includes both of the following: 27642

(a) A professional engineer registered under Chapter 4733. of 27643
the Revised Code; 27644

(b) A firm, partnership, association, or corporation 27645
providing engineering services in this state in compliance with 27646
Chapter 4733. of the Revised Code. 27647

(B) The director of environmental protection, in accordance 27648
with Chapter 119. of the Revised Code, shall adopt, and may amend 27649
and rescind, rules establishing a program for the certification of 27650
engineers to conduct compliance reviews. The rules, at a minimum, 27651
shall do all of the following: 27652

(1) Require that the program be administered by the director; 27653

(2) Establish eligibility criteria for certification to 27654
conduct compliance reviews; 27655

(3) Establish criteria for denying, suspending, and revoking 27656
certifications and renewals of certifications issued pursuant to 27657

rules adopted under division (B) of this section; 27658

(4) Require the periodic renewal of certifications issued 27659
pursuant to rules adopted under division (B) of this section; 27660

(5) Establish an application fee and fee for issuance for 27661
certifications under this section. The fees shall be established 27662
at a level calculated to defray the costs to the environmental 27663
protection agency for administering the certification program 27664
established by rules adopted under division (B) of this section. 27665
All such application and certification fees received by the 27666
director shall be deposited into the state treasury to the credit 27667
of the permit review fund created in division (E) of this section. 27668

(C) The director shall maintain a current list of all 27669
engineers who are certified to conduct compliance reviews pursuant 27670
to rules adopted under this section. The list shall indicate the 27671
types of permits, permit renewals, and plan approvals that each 27672
engineer is certified to review and the types or categories of 27673
facilities, sources, or activities in connection with which the 27674
engineer is certified to conduct the reviews. Upon request, the 27675
director shall provide a copy of the list to anyone requesting it. 27676

(D) An applicant for a permit, renewal of a permit, plan 27677
approval, or modification thereof, under Chapter 3704., 3734., 27678
6109., or 6111. of the Revised Code and applicable rules adopted 27679
under them, other than a hazardous waste facility installation and 27680
operation permit or renewal or modification of such a permit, a 27681
permit to establish or modify an infectious waste treatment 27682
facility, a permit to install a solid waste incineration facility 27683
that also would treat infectious wastes, or a permit to modify a 27684
solid waste incineration facility to also treat infectious wastes 27685
under Chapter 3734. of the Revised Code, may submit a written 27686
request to the director to have the compliance review conducted by 27687
an engineer certified under this section. The request shall 27688
accompany the permit application, shall indicate the applicant's 27689

choice from among the certified engineers on the director's list 27690
who are qualified to conduct the compliance review, shall be 27691
accompanied by separate certifications by the applicant and the 27692
engineer indicating that the applicant does not have and has not 27693
had during the preceding two years a financial interest in the 27694
engineer and has not employed or retained the engineer to perform 27695
services for the applicant during the preceding two years, and may 27696
be accompanied by a draft proposal for conducting the compliance 27697
review that was developed by the applicant and the engineer. No 27698
such draft proposal is binding upon the director. 27699

Within seven days after receiving a request under this 27700
division, the director shall do all of the following, as 27701
appropriate: 27702

(1) In the director's discretion, approve or disapprove the 27703
applicant's request to have the compliance review of the 27704
application conducted by an engineer on the list of certified 27705
engineers prepared under this section; 27706

(2) If the director approves the conducting of the compliance 27707
review by such a certified engineer, approve or disapprove, in the 27708
director's discretion, the applicant's choice of the engineer; 27709

(3) Mail written notice of decisions made under divisions 27710
(D)(1) and (2) of this section to the applicant. 27711

If the director fails to mail notice of the director's 27712
decisions on the request to the applicant within seven days after 27713
receiving the request, it is conclusively presumed that the 27714
director approved the applicant's request to have the compliance 27715
review conducted by a certified engineer and the applicant's 27716
choice of the engineer, and the director shall enter into a 27717
contract with the engineer chosen by the applicant. If the 27718
director disapproves the applicant's choice of an engineer and 27719
provides timely notice of the disapproval to the applicant, the 27720

director and applicant, by mutual agreement, shall select another 27721
engineer from the list prepared under this section to conduct the 27722
compliance review, and the director shall enter into a contract 27723
with that engineer. 27724

(E) The director may enter into contracts for conducting 27725
performance reviews under division (D) of this section without 27726
advertising for bids. The commencement of any work under such a 27727
contract shall be contingent upon the director's receipt of 27728
payment from the applicant of an amount that is equal to one 27729
hundred ten per cent of the amount specified in the contract, 27730
excluding contingencies for any additional work that may be needed 27731
to properly complete the review and that was not anticipated when 27732
the contract was made. Moneys received by the director from an 27733
applicant shall be deposited into the permit review fund, which is 27734
hereby created in the state treasury. The director shall use 27735
moneys in the fund to pay the cost of compliance reviews conducted 27736
pursuant to contracts entered into under division (D) of this 27737
section and to administer the certification program established 27738
under division (B) of this section. The director may use any 27739
moneys in the fund not needed for those purposes to administer the 27740
environmental laws or programs of this state. 27741

If, while conducting a compliance review, the engineer finds 27742
that work in addition to that upon which the cost under the 27743
contract was based, or any additional work previously authorized 27744
under this division, is needed to properly review the application 27745
and accompanying information for compliance with the applicable 27746
performance standards, the engineer shall notify the director of 27747
that fact and of the cost of the additional work, as determined 27748
pursuant to the terms of the contract. If the director finds that 27749
the additional work is needed and that the costs of performing the 27750
work have been determined in accordance with the terms of the 27751
contract, the director shall authorize the contractor to perform 27752

the work. Upon completion of the additional work, the contractor 27753
shall submit to the director an invoice for the cost of performing 27754
the additional work, and the director shall forward a copy of the 27755
invoice to the applicant. The applicant is liable to the state for 27756
an amount equal to one hundred ten per cent of the cost of 27757
performing the additional work and, within thirty days after 27758
receiving a copy of the invoice, shall pay to the director an 27759
amount equal to one hundred ten per cent of the amount indicated 27760
on the invoice. Upon receiving this payment, the director shall 27761
forward the moneys to the treasurer of state, who shall deposit 27762
them into the state treasury to the credit of the permit review 27763
fund. 27764

Until the applicant pays to the director the amount due in 27765
connection with the additional work, the director shall not issue 27766
to the applicant any permit, renewal of a permit, or plan 27767
approval, or modification thereof, for which an application is 27768
pending before the director. The director also may certify the 27769
unpaid amount to the attorney general and request that the 27770
attorney general bring a civil action against the applicant to 27771
recover that amount. Any moneys so recovered shall be deposited 27772
into the state treasury to the credit of the permit review fund. 27773

(F) Upon completing a compliance review conducted under this 27774
section, the engineer shall make a certification to the director 27775
as to whether the existing or proposed facility, source, activity, 27776
or modification will comply with the applicable performance 27777
standards. If the certification indicates that the existing or 27778
proposed facility, source, activity, or modification will not 27779
comply, the engineer shall include in the certification the 27780
engineer's findings as to the causes of the noncompliance. 27781

(G) When a compliance review is conducted by an engineer 27782
certified under this section, the other activities in connection 27783
with the consideration, approval, and issuance of the permit, 27784

renewal of the permit, or plan approval, or modification thereof, 27785
shall be conducted by the director ~~or, when applicable, the~~ 27786
~~hazardous waste facility board established in section 3734.05 of~~ 27787
~~the Revised Code,~~ in accordance with the applicable provisions of 27788
Chapter 3704., 3734., 6109., or 6111. of the Revised Code and 27789
rules adopted under the applicable chapter. 27790

(H) All expenses incurred by the attorney general in bringing 27791
a civil action under this section shall be reimbursed from the 27792
permit review fund in accordance with Chapter 109. of the Revised 27793
Code. 27794

Sec. 3745.40. (A) There is hereby created the clean Ohio 27795
operating fund consisting of moneys credited to the fund in 27796
accordance with this section. The fund shall be used to pay the 27797
costs incurred by the director of environmental protection 27798
pursuant to sections 122.65 to 122.658 of the Revised Code. 27799
Investment earnings of the fund shall be credited to the fund. ~~For~~ 27800
~~two years after the effective date of this section, investment~~ 27801
~~earnings credited to the fund and~~ may be used to pay 27802
administrative costs incurred by the director pursuant to those 27803
sections. 27804

(B) Notwithstanding section 3746.16 of the Revised Code, upon 27805
the request of the director of environmental protection, the 27806
director of development shall certify to the director of budget 27807
and management the amount of excess investment earnings that are 27808
available to be transferred from the clean Ohio revitalization 27809
fund created in section 122.658 of the Revised Code to the clean 27810
Ohio operating fund. Upon certification, the director of budget 27811
and management may transfer from the clean Ohio revitalization 27812
fund to the clean Ohio operating fund an amount not exceeding the 27813
amount of the annual appropriation to the clean Ohio operating 27814
fund. 27815

Sec. 3746.13. (A) For property that does not involve the 27816
issuance of a consolidated standards permit under section 3746.15 27817
of the Revised Code and where no engineering or institutional 27818
controls are used to comply with applicable standards, the 27819
director of environmental protection shall issue a covenant not to 27820
sue pursuant to section 3746.12 of the Revised Code by issuance of 27821
an order as a final action under Chapter 3745. of the Revised Code 27822
within thirty days after the director receives the no further 27823
action letter for the property and accompanying verification from 27824
the certified professional who prepared the letter under section 27825
3746.11 of the Revised Code. 27826

(B) For property that involves the issuance of a consolidated 27827
standards permit under section 3746.15 of the Revised Code or 27828
where engineering or institutional controls are used to comply 27829
with applicable standards, the director shall issue a covenant not 27830
to sue by issuance of an order as a final action under Chapter 27831
3745. of the Revised Code within ninety days after the director 27832
receives the no further action letter for the property and 27833
accompanying verification from the certified professional who 27834
prepared the letter. 27835

(C) Except as provided in division (D) of this section, each 27836
person who is issued a covenant not to sue under this section 27837
shall pay the fee established pursuant to rules adopted under 27838
division (B)(8) of section 3746.04 of the Revised Code. Until 27839
those rules become effective, each person who is issued a covenant 27840
not to sue shall pay a fee of two thousand dollars. The fee shall 27841
be paid to the director at the time that the no further action 27842
letter and accompanying verification are submitted to the 27843
director. 27844

(D) An applicant, as defined in section 122.65 of the Revised 27845
Code, who has entered into an agreement under section 122.653 of 27846

the Revised Code and who is issued a covenant not to sue under 27847
this section shall not be required to pay the fee for the issuance 27848
of a covenant not to sue established in rules adopted under 27849
division (B)(8) of section 3746.04 of the Revised Code. 27850

Sec. 3747.16. (A) As provided in division (A)(17) of section 27851
3747.06 of the Revised Code, the staff of the board of directors 27852
of the Ohio low-level radioactive waste facility development 27853
authority shall negotiate with the legislative authority of the 27854
host community for the purpose of developing a compensation 27855
agreement. The agreement shall include compensation for all of the 27856
following: 27857

(1) Replacement of lost tax revenue due to public ownership 27858
of any property based on the amount of tax revenue that would have 27859
been received if the property had not been acquired by the 27860
authority on behalf of the state for use as a disposal site; 27861

(2) Improvements in the public infrastructure necessary to 27862
support development and operation of the facility; 27863

(3) The hiring of employees to address the increased 27864
administrative workload resulting from siting the facility in the 27865
host community and to establish a local public information 27866
program; 27867

(4) Enhanced emergency response capability, including, 27868
without limitation, personnel and equipment; 27869

(5) The hiring of an independent, qualified inspector to be 27870
located at the facility during the period of construction and 27871
operation, with continuing responsibility to monitor all 27872
activities associated with closure, institutional control, and 27873
long-term care; 27874

(6) Compensation for additional direct impacts not identified 27875
in divisions (A)(1) to (5) of this section that may result from 27876

siting the facility in the host community. 27877

Following the negotiations, the board shall approve, approve 27878
with modifications requested by the board, or disapprove the 27879
agreement in accordance with division (A)(17) of section 3747.06 27880
of the Revised Code. ~~If the staff of the board and the legislative 27881
authority of the host community fail to agree on a compensation 27882
agreement, the board shall submit the matter for resolution to the 27883
Ohio commission on dispute resolution and conflict management 27884
created in Chapter 179. of the Revised Code. 27885~~

(B)(1) In addition to entering into an agreement with the 27886
board for compensation for direct impacts, the host community may 27887
negotiate a benefits agreement with the staff of the board. In 27888
accordance with division (A)(17) of section 3747.06 of the Revised 27889
Code, the board shall approve, approve with modifications 27890
requested by the board, or disapprove any such agreement. 27891

(2) The legislative authority of the host community may 27892
request the board to establish epidemiological health studies in 27893
the host community in accordance with division (A)(18) of section 27894
3747.06 of the Revised Code. 27895

(C) An affected community may petition the board for 27896
compensation for direct impacts on that community. The staff of 27897
the board shall negotiate any such agreement, and the board shall 27898
approve, approve with modifications requested by the board, or 27899
disapprove the agreement in accordance with division (A)(17) of 27900
section 3747.06 of the Revised Code. 27901

(D) At any time after final determination of licensure of the 27902
facility and until the expiration of the first five years that the 27903
facility is in operation, a property owner within the host 27904
community or an affected community who is selling or attempting to 27905
sell the property owner's property and who can demonstrate to the 27906
board that the property has been devalued as a direct result of 27907

the siting of the facility in the host community may petition the 27908
board for compensation or for the purchase of the property in 27909
accordance with rules adopted under division (A)(13) of section 27910
3747.07 of the Revised Code. 27911

Sec. 3748.07. (A) Every facility that proposes to handle 27912
radioactive material or radiation-generating equipment for which 27913
licensure or registration, respectively, by its handler is 27914
required shall apply in writing to the director of health on forms 27915
prescribed and provided by the director for licensure or 27916
registration. Terms and conditions of licenses and certificates of 27917
registration may be amended in accordance with rules adopted under 27918
section 3748.04 of the Revised Code or orders issued by the 27919
director pursuant to section 3748.05 of the Revised Code. 27920

(B) Until rules are adopted under section 3748.04 of the 27921
Revised Code, an application for a certificate of registration 27922
shall be accompanied by a biennial registration fee of ~~one~~ two 27923
hundred ~~sixty~~ dollars. On and after the effective date of those 27924
rules, an applicant for a license, registration certificate, or 27925
renewal of either shall pay the appropriate fee established in 27926
those rules. 27927

All fees collected under this section shall be deposited in 27928
the state treasury to the credit of the general operations fund 27929
created in section 3701.83 of the Revised Code. The fees shall be 27930
used solely to administer and enforce this chapter and rules 27931
adopted under it. 27932

Any fee required under this section that has not been paid 27933
within ninety days after the invoice date shall be assessed at two 27934
times the original invoiced fee. Any fee that has not been paid 27935
within one hundred eighty days after the invoice date shall be 27936
assessed at five times the original invoiced fee. 27937

(C) The director shall grant a license or registration to any 27938

applicant who has paid the required fee and is in compliance with 27939
this chapter and rules adopted under it. 27940

Until rules are adopted under section 3748.04 of the Revised 27941
Code, certificates of registration shall be effective for two 27942
years from the date of issuance. On and after the effective date 27943
of those rules, licenses and certificates of registration shall be 27944
effective for the applicable period established in those rules. 27945
Licenses and certificates of registration shall be renewed in 27946
accordance with the standard renewal procedure established in 27947
Chapter 4745. of the Revised Code. 27948

Sec. 3748.13. (A) The director of health shall inspect 27949
sources of radiation for which licensure or registration by the 27950
handler is required, and the sources' shielding and surroundings, 27951
according to the schedule established in rules adopted under 27952
division (D) of section 3748.04 of the Revised Code. In accordance 27953
with rules adopted under that section, the director shall inspect 27954
all records and operating procedures of handlers that install 27955
sources of radiation and all sources of radiation for which 27956
licensure of radioactive material or registration of 27957
radiation-generating equipment by the handler is required. The 27958
director may make other inspections upon receiving complaints or 27959
other evidence of violation of this chapter or rules adopted under 27960
it. 27961

The director shall require any hospital registered under 27962
division (A) of section 3701.07 of the Revised Code to develop and 27963
maintain a quality assurance program for all sources of 27964
radiation-generating equipment. A certified radiation expert shall 27965
conduct oversight and maintenance of the program and shall file a 27966
report of audits of the program with the director on forms 27967
prescribed by the director. The audit reports shall become part of 27968
the inspection record. 27969

(B) Until rules are adopted under division (A)(8) of section		27970
3748.04 of the Revised Code, a facility shall pay inspection fees		27971
according to the following schedule and categories:		27972
First dental x-ray tube	\$ 94.00 <u>118.00</u>	27973
Each additional dental x-ray tube	\$ 47.00 <u>59.00</u>	27974
at the same location		
First medical x-ray tube	\$187.00 <u>235.00</u>	27975
Each additional medical x-ray tube	\$ 94.00 <u>125.00</u>	27976
at the same location		
Each unit of ionizing	\$373.00 <u>466.00</u>	27977
radiation-generating equipment		
capable of operating at or above		
250 kilovoltage peak		
First nonionizing	\$187.00 <u>235.00</u>	27978
radiation-generating equipment of		
any kind		
Each additional nonionizing	\$ 94.00 <u>125.00</u>	27979
radiation-generating equipment of		
any kind at the same location		
Assembler-maintainer inspection	\$233.00 <u>291.00</u>	27980
consisting of an inspection of		
records and operating procedures		
of handlers that install sources		
of radiation		
Until rules are adopted under division (A)(8) of section		27981
3748.04 of the Revised Code, the fee for an inspection to		27982
determine whether violations cited in a previous inspection have		27983
been corrected is fifty per cent of the fee applicable under the		27984
schedule in this division. Until those rules are adopted, the fee		27985
for the inspection of a facility that is not licensed or		27986
registered and for which no license or registration application is		27987
pending at the time of inspection is two <u>three</u> hundred ninety		27988

sixty-three dollars plus the fee applicable under the schedule in 27989
this division. 27990

The director may conduct a review of shielding plans or the 27991
adequacy of shielding on the request of a licensee or registrant 27992
or an applicant for licensure or registration or during an 27993
inspection when the director considers a review to be necessary. 27994
Until rules are adopted under division (A)(8) of section 3748.04 27995
of the Revised Code, the fee for the review is ~~four~~ five hundred 27996
~~sixty-six~~ eighty-three dollars for each room where a source of 27997
radiation is used and is in addition to any other fee applicable 27998
under the schedule in this division. 27999

All fees shall be paid to the department of health no later 28000
than thirty days after the invoice for the fee is mailed. Fees 28001
shall be deposited in the general operations fund created in 28002
section 3701.83 of the Revised Code. The fees shall be used solely 28003
to administer and enforce this chapter and rules adopted under it. 28004

Any fee required under this section that has not been paid 28005
within ninety days after the invoice date shall be assessed at two 28006
times the original invoiced fee. Any fee that has not been paid 28007
within one hundred eighty days after the invoice date shall be 28008
assessed at five times the original invoiced fee. 28009

(C) If the director determines that a board of health of a 28010
city or general health district is qualified to conduct 28011
inspections of radiation-generating equipment, the director may 28012
delegate to the board, by contract, the authority to conduct such 28013
inspections. In making a determination of the qualifications of a 28014
board of health to conduct those inspections, the director shall 28015
evaluate the credentials of the individuals who are to conduct the 28016
inspections of radiation-generating equipment and the radiation 28017
detection and measuring equipment available to them for that 28018
purpose. If a contract is entered into, the board shall have the 28019
same authority to make inspections of radiation-generating 28020

equipment as the director has under this chapter and rules adopted 28021
under it. The contract shall stipulate that only individuals 28022
approved by the director as qualified shall be permitted to 28023
inspect radiation-generating equipment under the contract's 28024
provisions. The contract shall provide for such compensation for 28025
services as is agreed to by the director and the board of health 28026
of the contracting health district. The director may reevaluate 28027
the credentials of the inspection personnel and their radiation 28028
detecting and measuring equipment as often as the director 28029
considers necessary and may terminate any contract with the board 28030
of health of any health district that, in the director's opinion, 28031
is not satisfactorily performing the terms of the contract. 28032

(D) The director may enter at all reasonable times upon any 28033
public or private property to determine compliance with this 28034
chapter and rules adopted under it. 28035

Sec. 3770.07. (A)~~(1)~~ Lottery prize awards shall be claimed by 28036
the holder of the winning lottery ticket, or by the executor or 28037
administrator, or the trustee of a trust, of the estate of a 28038
deceased holder of a winning ticket, in a manner to be determined 28039
by the state lottery commission, within one hundred eighty days 28040
after the date on which such prize award was announced if the 28041
lottery game is an on-line game, and within one hundred eighty 28042
days after the close of the game if the lottery game is an instant 28043
game. ~~Except as otherwise provided in division (B) of this~~ 28044
~~section, if~~ If no valid claim to the prize award is made within 28045
the prescribed period, the prize money or the cost of goods and 28046
services awarded as prizes, or if such goods or services are 28047
resold by the commission, the proceeds from such sale, shall be 28048
returned to the state lottery fund and distributed in accordance 28049
with section 3770.06 of the Revised Code. 28050

~~(2)~~(B) If a prize winner, as defined in section 3770.10 of 28051

the Revised Code, is under eighteen years of age, or is under some 28052
other legal disability, and the prize money or the cost of goods 28053
or services awarded as a prize exceeds one thousand dollars, the 28054
director shall order that payment be made to the order of the 28055
legal guardian of that prize winner. If the amount of the prize 28056
money or the cost of goods or services awarded as a prize is one 28057
thousand dollars or less, the director may order that payment be 28058
made to the order of the adult member, if any, of that prize 28059
winner's family legally responsible for the care of that prize 28060
winner. 28061

~~(3)~~(C) No right of any prize winner, as defined in section 28062
3770.10 of the Revised Code, to a prize award shall be the subject 28063
of a security interest or used as collateral. 28064

~~(4)~~(a)(D)(1) No right of any prize winner, as defined in 28065
section 3770.10 of the Revised Code, to a prize award shall be 28066
assignable, or subject to garnishment, attachment, execution, 28067
withholding, or deduction, except as follows: as provided in 28068
sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the 28069
Revised Code; when the payment is to be made to the executor or 28070
administrator or the trustee of a trust of the estate of a winning 28071
ticket holder; when the award of a prize is disputed, any person 28072
may be awarded a prize award to which another has claimed title, 28073
pursuant to the order of a court of competent jurisdiction; when 28074
the director is to make a payment pursuant to section 3770.071 of 28075
the Revised Code; or as provided in sections 3770.10 to 3770.14 of 28076
the Revised Code. 28077

~~(b)~~(2) The commission shall adopt rules pursuant to section 28078
3770.03 of the Revised Code concerning the payment of prize awards 28079
upon the death of a prize winner. Upon the death of a prize 28080
winner, as defined in section 3770.10 of the Revised Code, the 28081
remainder of the prize winner's prize award, to the extent it is 28082
not subject to a transfer agreement under sections 3770.10 to 28083

3770.14 of the Revised Code, may be paid to the executor, 28084
administrator, or trustee in the form of a discounted lump sum 28085
cash settlement. 28086

~~(5)(E)~~ No lottery prize award shall be awarded to or for any 28087
officer or employee of the state lottery commission, any officer 28088
or employee of the auditor of state actively coordinating and 28089
certifying commission drawings, or any blood relative or spouse of 28090
such officer or employee of the commission or auditor of state 28091
living as a member of such officer's or employee's household, nor 28092
shall any such employee, blood relative, or spouse attempt to 28093
claim a lottery prize award. 28094

~~(6)(F)~~ The director may prohibit vendors to the commission 28095
and their employees from being awarded a lottery prize award. 28096

~~(7)(G)~~ Upon the payment of prize awards pursuant to this 28097
section, the director and the commission are discharged from all 28098
further liability ~~therefor~~ for the awards. 28099

~~(B)~~ ~~The commission may adopt rules governing the disbursement~~ 28100
~~of unclaimed prize awards as all or part of the prize award in a~~ 28101
~~lottery and may, pursuant to those rules, conduct the lottery and~~ 28102
~~disburse any such unclaimed prize awards. Any lottery in which all~~ 28103
~~or any part of the prize award is paid from unclaimed prize awards~~ 28104
~~shall be conducted in accordance with all of the other~~ 28105
~~requirements of this chapter, including, but not limited to, the~~ 28106
~~time and proof requirements for claiming awards and the~~ 28107
~~disposition of unclaimed prize awards when the prescribed period~~ 28108
~~for claiming the award has passed. A prize award or any part of a~~ 28109
~~prize award that is paid from an unclaimed prize award shall not~~ 28110
~~be reapplied toward the satisfaction of the requirement of~~ 28111
~~division (A) of section 3770.06 of the Revised Code that at least~~ 28112
~~fifty per cent of the total revenues from ticket sales be~~ 28113
~~disbursed for monetary prize awards, if such unclaimed prize award~~ 28114
~~was previously applied toward the satisfaction of that~~ 28115

~~requirement. On or before the last day of January and July each year, the commission shall report to the general assembly the gross sales and net profits the commission obtained from the unclaimed prize awards in lotteries conducted pursuant to this division during the preceding two calendar quarters, including the amount of money produced by the games funded by the unclaimed prize awards and the total revenue accruing to the state from the prize award lotteries conducted pursuant to this division.~~

~~There is hereby established in the state treasury the unclaimed lottery prizes fund, to which all unclaimed prize awards shall be transferred. Any interest that accrues on the amounts in the fund shall become a part of the fund and shall be subject to any rules adopted by the commission governing the disbursement of unclaimed prize awards.~~

Sec. 3770.10. As used in sections 3770.07 and 3770.10 to 3770.14 of the Revised Code:

(A) "Court of competent jurisdiction" means the probate court of the county in which the prize winner resides, or, if the prize winner is not a resident of this state, the probate court of Franklin county or a federal court having jurisdiction over the lottery prize award.

(B) "Discounted present value" means the present value of the future payments of a lottery prize award that is determined by discounting those payments to the present, using the most recently published applicable federal rate for determining the present value of an annuity as issued by the United States internal revenue service and assuming daily compounding.

(C) "Independent professional advice" means the advice of an attorney, a certified public accountant, an actuary, or any other licensed professional adviser if all of the following apply:

(1) The prize winner has engaged the services of the licensed professional adviser to render advice concerning the legal and other implications of a transfer of the lottery prize award.

(2) The licensed professional adviser is not affiliated in any manner with or compensated in any manner by the transferee of the lottery prize award.

(3) The compensation of the licensed professional adviser is not affected by whether or not a transfer of a lottery prize award occurs.

(D) "Prize winner" means any person that holds the right to receive all or any part of a lottery prize award as a result of being any of the following:

(1) A person who is a claimant under division (A)~~(1)~~ of section 3770.07 of the Revised Code;

(2) A person who is entitled to a prize award and who is under a legal disability as described in division ~~(A)(2)~~(B) of section 3770.07 of the Revised Code;

(3) A person who was awarded a prize award to which another has claimed title by a court order under division ~~(A)(4)(a)~~(D)(1) of section 3770.07 of the Revised Code;

(4) A person who is receiving payments upon the death of a prize winner as provided in division ~~(A)(4)(b)~~(D)(2) of section 3770.07 of the Revised Code.

(E) "Transfer" means any form of sale, assignment, or redirection of payment of all or any part of a lottery prize award for consideration.

(F) "Transfer agreement" means an agreement that is complete and valid, and that provides for the transfer of all or any part of a lottery prize award from a transferor to a transferee. A transfer agreement is incomplete and invalid unless the agreement

contains both of the following: 28176

(1) A statement, signed by the transferor under penalties of 28177
perjury, that the transferor irrevocably agrees that the 28178
transferor is subject to the tax imposed by Chapter 5733. or 5747. 28179
of the Revised Code with respect to gain or income which the 28180
transferor will recognize in connection with the transfer. If the 28181
transferor is a pass-through entity, as defined in section 5733.04 28182
of the Revised Code, each investor in the pass-through entity 28183
shall also sign under penalties of perjury a statement that the 28184
investor irrevocably agrees that the investor is subject to the 28185
tax imposed by Chapter 5733. or 5747. of the Revised Code with 28186
respect to gain or income which the transferor and the investor 28187
will recognize in connection with the transfer. 28188

(2) A statement, signed by the transferee, that the 28189
transferee irrevocably agrees that the transferee is subject to 28190
the withholding requirements imposed by division (C) of section 28191
3770.072 of the Revised Code and is subject to the tax imposed by 28192
Chapter 5733. or 5747. of the Revised Code with respect to gain or 28193
income which the transferee will recognize in connection with 28194
lottery prize awards to be received as a result of the transfer. 28195
If the transferee is a pass-through entity, as defined in section 28196
5733.04 of the Revised Code, each investor in the pass-through 28197
entity shall also sign under penalties of perjury a statement 28198
setting forth that the investor irrevocably agrees that the 28199
investor is subject to the withholding requirements imposed by 28200
division (C) of section 3770.072 of the Revised Code and is 28201
subject to the tax imposed by Chapter 5733. or 5747. of the 28202
Revised Code with respect to gain or income which the transferee 28203
and the investor will recognize in connection with lottery prize 28204
awards to be received as a result of the transfer. 28205

(G) "Transferee" means a party acquiring or proposing to 28206
acquire all or any part of a lottery prize award through a 28207

transfer. 28208

(H) "Transferor" means either a prize winner or a transferee 28209
in an earlier transfer whose interest is acquired by or is sought 28210
to be acquired by a transferee or a new transferee through a 28211
transfer. 28212

Sec. 3770.99. (A) Whoever is prohibited from claiming a 28213
lottery prize award under division ~~(A)(5)(E)~~ of section 3770.07 of 28214
the Revised Code and attempts to claim or is paid a lottery prize 28215
award is guilty of a minor misdemeanor, and shall provide 28216
restitution to the state lottery commission of any moneys 28217
erroneously paid as a lottery prize award to that person. 28218

(B) Whoever violates division (C) of section 3770.071 or 28219
section 3770.08 of the Revised Code is guilty of a misdemeanor of 28220
the third degree. 28221

Sec. 3773.33. (A) There is hereby created the Ohio athletic 28222
commission. The commission shall consist of five voting members 28223
appointed by the governor with the advice and consent of the 28224
senate, not more than three of whom shall be of the same political 28225
party, and two nonvoting members, one of whom shall be a member of 28226
the senate appointed by and to serve at the pleasure of the 28227
president of the senate and one of whom shall be a member of the 28228
house of representatives appointed by and to serve at the pleasure 28229
of the speaker of the house of representatives. To be eligible for 28230
appointment as a voting member, a person shall be a qualified 28231
elector and a resident of the state for not less than five years 28232
immediately preceding the person's appointment. Two voting members 28233
shall be knowledgeable in boxing, at least one voting member shall 28234
be knowledgeable and experienced in high school athletics, one 28235
voting member shall be knowledgeable and experienced in 28236
professional athletics, and at least one voting member shall be 28237

knowledgeable and experienced in collegiate athletics. One 28238
commission member shall hold the degree of doctor of medicine or 28239
doctor of osteopathy. 28240

(B) No person shall be appointed to the commission or be an 28241
employee of the commission who is licensed, registered, or 28242
regulated by the commission. No member shall have any legal or 28243
beneficial interest, direct or indirect, pecuniary or otherwise, 28244
in any person who is licensed, registered, or regulated by the 28245
commission or who participates in prize fights or public boxing or 28246
wrestling matches or exhibitions. No member shall participate in 28247
any fight, match, or exhibition other than in the member's 28248
official capacity as a member of the commission, or as an 28249
inspector as authorized in section 3773.52 of the Revised Code. 28250

(C) The governor shall appoint the voting members to the 28251
commission. Of the initial appointments, two shall be for terms 28252
ending one year after September 3, 1996, two shall be for terms 28253
ending two years after September 3, 1996, and one shall be for a 28254
term ending three years after September 3, 1996. Thereafter, terms 28255
of office shall be for three years, each term ending the same day 28256
of the same month of the year as did the term which it succeeds. 28257
Each member shall hold office from the date of the member's 28258
appointment until the end of the term for which the member was 28259
appointed. Any member appointed to fill a vacancy occurring prior 28260
to the expiration of the term for which the member's predecessor 28261
was appointed shall hold office for the remainder of the term. Any 28262
member shall continue in office subsequent to the expiration date 28263
of the member's term until the member's successor takes office, or 28264
until a period of sixty days has elapsed, whichever occurs first. 28265

The governor shall name one voting member as chairperson of 28266
the commission at the time of making the appointment of any member 28267
for a full term. Three voting members shall constitute a quorum, 28268
and the affirmative vote of three voting members shall be 28269

necessary for any action taken by the commission. No vacancy on 28270
the commission impairs the authority of the remaining members to 28271
exercise all powers of the commission. 28272

Voting members, when engaged in commission duties, shall 28273
receive a per diem compensation determined in accordance with 28274
division (J) of section 124.15 of the Revised Code, and all 28275
members shall receive their actual and necessary expenses incurred 28276
in the performance of their official duties. 28277

Each voting member, before entering upon the discharge of the 28278
member's duties, shall file a surety bond payable to the treasurer 28279
of state in the sum of ten thousand dollars. Each surety bond 28280
shall be conditioned upon the faithful performance of the duties 28281
of the office, executed by a surety company authorized to transact 28282
business in this state, and filed in the office of the secretary 28283
of state. 28284

The governor may remove any voting member for malfeasance, 28285
misfeasance, or nonfeasance in office after giving the member a 28286
copy of the charges against the member and affording the member an 28287
opportunity for a public hearing, at which the member may be 28288
represented by counsel, upon not less than ten days' notice. If 28289
the member is removed, the governor shall file a complete 28290
statement of all charges made against the member and the 28291
governor's finding ~~thereon~~ on the charges in the office of the 28292
secretary of state, together with a complete report of the 28293
proceedings. The governor's decision shall be final. 28294

~~(D) The commission shall maintain an office in Youngstown and 28295
keep all of its permanent records there. 28296~~

Sec. 3773.43. The Ohio athletic commission shall charge the 28297
following fees: 28298

(A) For an application for or renewal of a promoter's license 28299

for public boxing matches or exhibitions, ~~fifty~~ one hundred 28300
dollars. 28301

(B) For an application for or renewal of a license to 28302
participate in a public boxing match or exhibition as a 28303
contestant, or as a referee, judge, matchmaker, manager, 28304
timekeeper, trainer, or second of a contestant, ~~ten~~ twenty 28305
dollars. 28306

(C) For a permit to conduct a public boxing match or 28307
exhibition, ~~ten~~ fifty dollars. 28308

(D) For an application for or renewal of a promoter's license 28309
for professional wrestling matches or exhibitions, ~~one~~ two hundred 28310
dollars. 28311

(E) For a permit to conduct a professional wrestling match or 28312
exhibition, ~~fifty~~ one hundred dollars. 28313

The commission, subject to the approval of the controlling 28314
board, may establish fees in excess of the amounts provided in 28315
this section, provided that such fees do not exceed the amounts 28316
permitted by this section by more than ~~twenty-five~~ fifty per cent. 28317

The fees prescribed by this section shall be paid to the 28318
treasurer of state, who shall deposit the fees in the occupational 28319
licensing and regulatory fund. 28320

Sec. 3781.19. There is hereby established in the department 28321
of commerce a board of building appeals consisting of five members 28322
who shall be appointed by the governor with the advice and consent 28323
of the senate. Terms of office shall be for four years, commencing 28324
on the fourteenth day of October and ending on the thirteenth day 28325
of October. Each member shall hold office from the date of ~~his~~ 28326
appointment until the end of the term for which ~~he~~ the member was 28327
appointed. Any member appointed to fill a vacancy occurring prior 28328
to the expiration of the term for which ~~his~~ the member's 28329

predecessor was appointed shall hold office for the remainder of 28330
such term. Any member shall continue in office subsequent to the 28331
expiration date of ~~his~~ the member's term until ~~his~~ a successor 28332
takes office, or until a period of sixty days has elapsed, 28333
whichever occurs first. One member shall be an attorney-at-law, 28334
admitted to the bar of this state and of the remaining members, 28335
one shall be a registered architect and one shall be a 28336
professional engineer, each of whom shall be duly licensed to 28337
practice their respective professions in this state, one shall be 28338
a fire prevention officer qualified under section 3737.66 of the 28339
Revised Code, and one shall be a person with recognized ability in 28340
the plumbing or pipefitting profession. No member of the board of 28341
building standards shall be a member of the board of building 28342
appeals. Each member shall be paid an amount fixed pursuant to 28343
Chapter 124. of the Revised Code per diem. The department shall 28344
provide and assign to the board such employees as are required by 28345
the board to perform its functions. The board may adopt its own 28346
rules of procedure not inconsistent with sections 3781.06 to 28347
3781.18 and 3791.04 of the Revised Code, and may change them in 28348
its discretion. The board may establish reasonable fees, based on 28349
actual costs for administration of filing and processing, not to 28350
exceed ~~one~~ two hundred dollars, for the costs of filing and 28351
processing appeals. A full and complete record of all proceedings 28352
of the board shall be kept and be open to public inspection. 28353

In the enforcement by any department of the state or any 28354
political subdivision of this chapter and Chapter 3791., and 28355
sections 3737.41, 3737.42, 4104.02, 4104.06, 4104.44, 4104.45, 28356
4105.011, and 4105.11 of the Revised Code and any rule made 28357
thereunder, such department is the agency referred to in sections 28358
119.07, 119.08, and 119.10 of the Revised Code. 28359

The appropriate municipal or county board of appeals, where 28360
one exists, certified pursuant to section 3781.20 of the Revised 28361

Code shall conduct the adjudication hearing referred to in 28362
sections 119.09 to 119.13 and required by section 3781.031 of the 28363
Revised Code. If there is no certified municipal or county board 28364
of appeals, the board of building appeals shall conduct the 28365
adjudication hearing. If the adjudication hearing concerns section 28366
3781.111 of the Revised Code or any rule made thereunder, 28367
reasonable notice of the time, date, place, and subject of the 28368
hearing shall be given to any local corporation, association, or 28369
other organization composed of or representing handicapped 28370
persons, as defined in section 3781.111 of the Revised Code, or if 28371
there is no local organization, then to any statewide corporation, 28372
association, or other organization composed of or representing 28373
handicapped persons. 28374

In addition to the provisions of Chapter 119. of the Revised 28375
Code, the municipal, county, or state board of building appeals, 28376
as the agency conducting the adjudication hearing, may reverse or 28377
modify the order of the enforcing agency if it finds that the 28378
order is contrary to this chapter and Chapters 3791. and 4104., 28379
and sections 3737.41, 3737.42, 4105.011 and 4105.11 of the Revised 28380
Code and any rule made thereunder or to a fair interpretation or 28381
application of such laws or any rule made thereunder, or that a 28382
variance from the provisions of such laws or any rule made 28383
thereunder, in the specific case, will not be contrary to the 28384
public interest where a literal enforcement of such provisions 28385
will result in unnecessary hardship. 28386

The state board of building appeals or a certified municipal 28387
or county board of appeals shall render its decision within thirty 28388
days after the date of the adjudication hearing. Following the 28389
adjudication hearing, any municipal or county officer, official 28390
municipal or county board, or person who was a party to the 28391
hearing before the municipal or county board of appeals may apply 28392
to the state board of appeals for a de novo hearing before the 28393

state board, or may appeal directly to the court of common pleas 28394
pursuant to section 3781.031 of the Revised Code. 28395

In addition, any local corporation, association, or other 28396
organization composed of or representing handicapped persons as 28397
defined in section 3781.111 of the Revised Code, or, if no local 28398
corporation, association, or organization exists, then any 28399
statewide corporation, association, or other organization composed 28400
of or representing handicapped persons may apply for the de novo 28401
hearing or appeal to the court of common pleas from any decision 28402
of a certified municipal or county board of appeals interpreting, 28403
applying, or granting a variance from section 3781.111 of the 28404
Revised Code and any rule made thereunder. Application for a de 28405
novo hearing before the state board shall be made no later than 28406
thirty days after the municipal or county board renders its 28407
decision. 28408

The state board of building appeals or the appropriate 28409
certified local board of building appeals shall grant variances 28410
and exemptions from the requirements of section 3781.108 of the 28411
Revised Code in accordance with rules adopted by the board of 28412
building standards pursuant to division (J) of section 3781.10 of 28413
the Revised Code. 28414

The state board of building appeals or the appropriate 28415
certified local board of building appeals shall, in granting a 28416
variance or exemption from section 3781.108 of the Revised Code, 28417
in addition to any other considerations the state or the 28418
appropriate local board determines appropriate, consider the 28419
architectural and historical significance of the building. 28420

Sec. 4104.01. As used in sections 4104.01 to 4104.20 and 28421
section 4104.99 of the Revised Code: 28422

(A) "Board of building standards" or "board" means the board 28423
established by section 3781.07 of the Revised Code. 28424

(B) "Superintendent" means the superintendent of the division of industrial compliance created by section 121.04 of the Revised Code.

(C) "Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels, or from electricity or nuclear energy. "Boiler" includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.

(D) "Power boiler" means a boiler in which steam or other vapor (to be used externally to itself) is generated at a pressure of more than fifteen psig.

(E) "High pressure, high temperature water boiler" means a water heating boiler operating at pressures exceeding one hundred sixty psig or temperatures exceeding two hundred fifty degrees Fahrenheit.

(F) "Low pressure boiler" means a steam boiler operating at pressures not exceeding fifteen psig, or a hot water heating boiler operating at pressures not exceeding one hundred sixty psig or temperatures not exceeding two hundred fifty degrees Fahrenheit.

(G) "~~Unfired pressure~~ Pressure vessel" means a container for the containment of pressure, either internal or external. This pressure may be obtained from an external source or by the application of heat from a direct or indirect source or any combination thereof.

(H) "Process boiler" means a boiler to which all of the following apply:

(1) The steam in the boiler is either generated or 28455
superheated, or both, under pressure or vacuum for use external to 28456
itself. 28457

(2) The source of heat for the boiler is in part or in whole 28458
from a process other than the boiler itself. 28459

(3) The boiler is part of a continuous processing unit, such 28460
as used in chemical manufacture or petroleum refining, other than 28461
a steam-generated process unit. 28462

(I) "Stationary steam engine" means an engine or turbine in 28463
which the mechanical force arising from the elasticity and 28464
expansion action of steam or from its property of rapid 28465
condensation or from a combination of the two is made available as 28466
a motive power. 28467

Sec. 4104.02. The board of building standards shall: 28468

(A) Formulate rules for the construction, installation, 28469
~~inspection~~, repair, conservation of energy, and operation of 28470
boilers and the construction, ~~inspection~~, and repair of ~~unfired~~ 28471
pressure vessels and for ascertaining the safe working pressures 28472
to be carried on such boilers and ~~unfired~~ pressure vessels and the 28473
qualification of inspectors of boilers and ~~unfired~~ pressure 28474
vessels; 28475

(B) Prescribe tests, if it is considered necessary, to 28476
ascertain the qualities of materials used in the construction of 28477
boilers and ~~unfired~~ pressure vessels; 28478

(C) Adopt rules regulating the construction and sizes of 28479
safety valves for boilers and ~~unfired~~ pressure vessels of 28480
different sizes and pressures, for the construction, use, and 28481
location of fusible plugs, appliances for indicating the pressure 28482
of steam and level of water in the boiler or ~~unfired~~ pressure 28483
vessels, and such other appliances as the board considers 28484

necessary to safety in operating boilers; 28485

(D) Establish reasonable fees for the performance of reviews, 28486
surveys, or audits of manufacturer's facilities by the division of 28487
industrial compliance for certification by the American society of 28488
mechanical engineers and the national board of boiler and pressure 28489
vessel inspectors; 28490

(E) The definitions and rules adopted by the board for the 28491
construction, installation, ~~inspection~~, repair, conservation of 28492
energy, and operation of boilers and the construction, ~~inspection~~, 28493
and repair of ~~unfired~~ pressure vessels and for ascertaining the 28494
safe working pressures to be used on such boilers and ~~unfired~~ 28495
pressure vessels shall be based upon and follow generally accepted 28496
engineering standards, formulae, and practices established and 28497
pertaining to boilers and ~~unfired~~ pressure vessel construction, 28498
operation, and safety, and the board may, for this purpose, adopt 28499
existing published standards as well as amendments thereto 28500
subsequently published by the same authority. 28501

When a person desires to manufacture a special type of boiler 28502
or ~~unfired~~ pressure vessel, the design of which is not covered by 28503
the rules of the board, the person shall submit drawings and 28504
specifications of such boiler or ~~unfired~~ pressure vessel to the 28505
board for investigation, after which the board may permit its 28506
installation. 28507

The provisions of sections 119.03 and 119.11 of the Revised 28508
Code in particular, and the applicable provisions of Chapter 119. 28509
of the Revised Code in general, shall govern the proceedings of 28510
the board of building standards in adopting, amending, or 28511
rescinding rules pursuant to this section. 28512

Sec. 4104.04. (A) Sections 4104.01 to 4104.20 and section 28513
4104.99 of the Revised Code do not apply to the following boilers 28514
and ~~unfired~~ pressure vessels: 28515

(1) Boilers, unfired pressure vessels, and stationary steam engines under federal control or subject to inspection under federal laws;	28516 28517 28518
(2) Air tanks located on vehicles operating under the rules of other state authorities and used for carrying passengers, or freight;	28519 28520 28521
(3) Air tanks installed on the right of way of railroads and used directly in the operation of trains;	28522 28523
(4) Unfired-pressure <u>Pressure</u> vessels which that are under the regulation and control of the state fire marshal under Chapter 3737. of the Revised Code.	28524 28525 28526
(B) The following boilers and unfired pressure vessels are exempt from the requirements of sections 4104.10, 4104.101, 4104.11, 4104.12, and 4104.13 of the Revised Code, but shall be equipped with such appliances, to insure safety of operation, as are prescribed by the board:	28527 28528 28529 28530 28531
(1) Portable boilers or unfired pressure vessels when located on farms and used solely for agricultural purposes;	28532 28533
(2) Steam or vapor boilers carrying a pressure of not more than fifteen psig, which are located in private residences or in apartment houses of less than six family units;	28534 28535 28536
(3) Hot water boilers operated at pressures not exceeding one hundred sixty psig, or temperatures not exceeding two hundred fifty degrees fahrenheit, which are located in private residences or in apartment houses of less than six family units;	28537 28538 28539 28540
(4) Unfired-pressure <u>Pressure</u> vessels containing only water under pressure for domestic supply purposes, including those containing air, the compression of which serves only as a cushion or airlift pumping system, when located in private residences or in apartment houses of less than six family units;	28541 28542 28543 28544 28545

(5) Portable boilers used in pumping, heating, steaming, and drilling, in the open field, for water, gas, and oil; 28546
28547

(6) Portable boilers used in the construction of and repair to public roads, railroads, and bridges; 28548
28549

(7) Historical steam boilers of riveted construction, preserved, restored, or maintained for hobby or demonstration use. 28550
28551

Sec. 4104.06. (A) The inspection of boilers and their appurtenances and ~~unfired~~ pressure vessels shall be made by the inspectors mentioned in sections 4104.07 to 4104.20 of the Revised Code. The superintendent of industrial compliance shall administer and enforce such sections and rules adopted by the board of building standards pursuant to section 4104.02 of the Revised Code. 28552
28553
28554
28555
28556
28557
28558

(B) The superintendent shall adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for conducting hearings in accordance with Chapter 119. of the Revised Code related to these actions, and for the inspection of boilers and their appurtenances, and ~~unfired~~ pressure vessels. 28559
28560
28561
28562
28563
28564

(C) Notwithstanding division (B) of this section, the superintendent shall not adopt rules relating to construction, maintenance, or repair of boilers and their appurtenances, or repair of ~~unfired~~ pressure vessels. 28565
28566
28567
28568

(D) The superintendent and each general inspector may enter any premises and any building or room at all reasonable hours to perform an examination or inspection. 28569
28570
28571

Sec. 4104.07. (A) An application for examination as an inspector of boilers and ~~unfired~~ pressure vessels shall be in writing, accompanied by a fee of fifty dollars, upon a blank to be 28572
28573
28574

furnished by the superintendent of industrial compliance. Any 28575
moneys collected under this section shall be paid into the state 28576
treasury to the credit of the industrial compliance operating fund 28577
created in section 121.084 of the Revised Code. 28578

(B) The superintendent shall determine if an applicant meets 28579
all the requirements for examination in accordance with rules 28580
adopted by the board of building standards under section 4104.02 28581
of the Revised Code. An application shall be rejected which 28582
contains any willful falsification, or untruthful statements. 28583

(C) An applicant shall be examined by the superintendent, by 28584
a written examination, prescribed by the board, dealing with the 28585
construction, installation, operation, maintenance, and repair of 28586
boilers and ~~unfired~~ pressure vessels and their appurtenances, and 28587
the applicant shall be accepted or rejected on the merits of the 28588
applicant's application and examination. 28589

(D) Upon a favorable report by the superintendent of the 28590
result of an examination, the superintendent shall immediately 28591
issue to the successful applicant a certificate of competency to 28592
that effect. 28593

Sec. 4104.08. (A) The director of commerce may appoint from 28594
the holders of certificates of competency provided for in section 28595
4104.07 of the Revised Code, general inspectors of boilers and 28596
~~unfired~~ pressure vessels. 28597

(B) Any company authorized to insure boilers and ~~unfired~~ 28598
pressure vessels against explosion in this state may designate 28599
from holders of certificates of competency issued by the 28600
superintendent of industrial compliance, or holders of 28601
certificates of competency or commissions issued by other states 28602
or nations whose examinations for certificates or commissions have 28603
been approved by the board of building standards, persons to 28604
inspect and stamp boilers and ~~unfired~~ pressure vessels covered by 28605

the company's policies, and the superintendent shall issue to such persons commissions authorizing them to act as special inspectors. Special inspectors shall be compensated by the company designating them.

(C) The director of commerce shall establish an annual fee to be charged by the superintendent for each certificate of competency or commission the superintendent issues.

(D) The superintendent shall issue to each general or special inspector a commission to the effect that the holder thereof is authorized to inspect boilers and ~~unfired~~ pressure vessels in this state.

(E) No person shall be authorized to act as a general inspector or a special inspector who is directly or indirectly interested in the manufacture or sale of boilers or ~~unfired~~ pressure vessels.

Sec. 4104.15. (A) All certificates of inspection for boilers, issued prior to October 15, 1965, are valid and effective for the period set forth in such certificates unless sooner withdrawn by the superintendent of industrial compliance. The owner or user of any such boiler shall obtain an appropriate certificate of operation for such boiler, and shall not operate such boiler, or permit it to be operated unless a certificate of operation has been obtained in accordance with section 4104.17 of the Revised Code.

(B) If, upon making the internal and external inspection required under sections 4104.11, 4104.12, and 4104.13 of the Revised Code, the inspector finds the boiler to be in safe working order, with the fittings necessary to safety, and properly set up, upon the inspector's report to the superintendent, the superintendent shall issue to the owner or user thereof, or renew, upon application and upon compliance with sections 4104.17 and

4104.18 of the Revised Code, a certificate of operation which 28637
shall state the maximum pressure at which the boiler may be 28638
operated, as ascertained by the rules of the board of building 28639
standards. Such certificates shall also state the name of the 28640
owner or user, the location, size, and number of each boiler, and 28641
the date of issuance, and shall be so placed as to be easily read 28642
in the engine room or boiler room of the plant where the boiler is 28643
located, except that the certificate of operation for a portable 28644
boiler shall be kept on the premises and shall be accessible at 28645
all times. 28646

(C) If an inspector at any inspection finds that the boiler 28647
or ~~unfired~~ pressure vessel is not in safe working condition, or is 28648
not provided with the fittings necessary to safety, or if the 28649
fittings are improperly arranged, the inspector shall immediately 28650
notify the owner or user and person in charge of the boiler and 28651
shall report the same to the superintendent who may revoke, 28652
suspend, or deny the certificate of operation and not renew the 28653
same until the boiler or ~~unfired~~ pressure vessel and its fittings 28654
are put in condition to insure safety of operation, and the owner 28655
or user shall not operate the boiler or ~~unfired~~ pressure vessel, 28656
or permit it to be operated until such certificate has been 28657
granted or restored. 28658

(D) If the superintendent or a general boiler inspector finds 28659
that ~~an unfired~~ a pressure vessel or boiler or a part thereof 28660
poses an explosion hazard that reasonably can be regarded as 28661
posing an imminent danger of death or serious physical harm to 28662
persons, the superintendent or the general boiler inspector shall 28663
seal the ~~unfired~~ pressure vessel or boiler and order, in writing, 28664
the operator or owner of the ~~unfired~~ pressure vessel or boiler to 28665
immediately cease the ~~unfired~~ pressure vessel's or boiler's 28666
operation. The order shall be effective until the nonconformities 28667
are eliminated, corrected, or otherwise remedied, or for a period 28668

of seventy-two hours from the time of issuance, whichever occurs 28669
first. During the seventy-two-hour period, the superintendent may 28670
request that the prosecuting attorney or city attorney of Franklin 28671
county or of the county in which the ~~unfired~~ pressure vessel or 28672
boiler is located obtain an injunction restraining the operator or 28673
owner of the ~~unfired~~ pressure vessel or boiler from continuing its 28674
operation after the seventy-two-hour period expires until the 28675
nonconformities are eliminated, corrected, or otherwise remedied. 28676

(E) Each boiler which has been inspected shall be assigned a 28677
number by the superintendent, which number shall be stamped on a 28678
nonferrous metal tag affixed to the boiler or its fittings by seal 28679
or otherwise. No person except an inspector shall deface or remove 28680
any such number or tag. 28681

(F) If the owner or user of any ~~unfired~~ pressure vessel or 28682
boiler disagrees with the inspector as to the necessity for 28683
shutting down ~~an unfired~~ a pressure vessel or boiler or for making 28684
repairs or alterations in it, or taking any other measures for 28685
safety that are requested by an inspector, the owner or user may 28686
appeal from the decision of the inspector to the superintendent, 28687
who may, after such other inspection by a general inspector or 28688
special inspector as the superintendent deems necessary, decide 28689
the issue. 28690

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, 28691
nor an inspection or report by any inspector, shall relieve the 28692
owner or user of ~~an unfired~~ a pressure vessel or boiler of the 28693
duty of using due care in the inspection, operation, and repair of 28694
the ~~unfired~~ pressure vessel or boiler or of any liability for 28695
damages for failure to inspect, repair, or operate the ~~unfired~~ 28696
pressure vessel or boiler safely. 28697

Sec. 4104.18. (A) The owner or user of a boiler required 28698
under section 4104.12 of the Revised Code to be inspected upon 28699

installation, and the owner or user of a boiler for which a 28700
certificate of inspection has been issued which is replaced with 28701
an appropriate certificate of operation, shall pay to the 28702
superintendent of industrial compliance a fee in the amount of 28703
~~thirty~~ forty-five dollars for boilers subject to annual 28704
inspections under section 4104.11 of the Revised Code, ~~sixty~~ 28705
ninety dollars for boilers subject to biennial inspection under 28706
section 4104.13 of the Revised Code, ~~ninety one hundred~~ 28707
thirty-five dollars for boilers subject to triennial inspection 28708
under section 4104.11 of the Revised Code, or ~~one two~~ hundred 28709
~~fifty~~ twenty-five dollars for boilers subject to quinquennial 28710
inspection under section 4104.13 of the Revised Code. 28711

A renewal fee in the amount of ~~thirty~~ forty-five dollars 28712
shall be paid to the treasurer of state before the renewal of any 28713
certificate of operation. 28714

(B) The fee for complete inspection during construction by a 28715
general inspector on boilers and ~~unfired~~ pressure vessels 28716
manufactured within the state shall be thirty-five dollars per 28717
hour. Boiler and ~~unfired~~ pressure vessel manufacturers other than 28718
those located in the state may secure inspection by a general 28719
inspector on work during construction, upon application to the 28720
superintendent, and upon payment of a fee of thirty-five dollars 28721
per hour, plus the necessary traveling and hotel expenses incurred 28722
by the inspector. 28723

(C) The application fee for applicants for steam engineer, 28724
high pressure boiler operator, or low pressure boiler operator 28725
licenses is fifty dollars. The fee for each original or renewal 28726
steam engineer, high pressure boiler operator, or low pressure 28727
boiler operator license is thirty-five dollars. 28728

(D) The director of commerce, subject to the approval of the 28729
controlling board, may establish fees in excess of the fees 28730
provided in divisions (A), (B), and (C) of this section, ~~provided~~ 28731

~~that such fees do not exceed the amounts established in this~~ 28732
~~section by more than fifty per cent.~~ Any moneys collected under 28733
this section shall be paid into the state treasury to the credit 28734
of the industrial compliance operating fund created in section 28735
121.084 of the Revised Code. 28736

(E) Any person who fails to pay an invoiced renewal fee or an 28737
invoiced inspection fee required for any inspection conducted by 28738
the division of industrial compliance pursuant to this chapter 28739
within forty-five days of the invoice date shall pay a late 28740
payment fee equal to twenty-five per cent of the invoiced fee. 28741

(F) In addition to the fees assessed in divisions (A) and (B) 28742
of this section, the board of building standards shall assess the 28743
owner or user a fee of three dollars and twenty-five cents for 28744
each certificate of operation or renewal thereof issued under 28745
division (A) of this section and for each inspection conducted 28746
under division (B) of this section. The board shall adopt rules, 28747
in accordance with Chapter 119. of the Revised Code, specifying 28748
the manner by which the superintendent shall collect and remit to 28749
the board the fees assessed under this division and requiring that 28750
remittance of the fees be made at least quarterly. 28751

Sec. 4104.19. (A) Any person seeking a license to operate as 28752
a steam engineer, high pressure boiler operator, or low pressure 28753
boiler operator shall file a written application with the 28754
superintendent of industrial compliance on a form prescribed by 28755
the superintendent with the appropriate application fee as set 28756
forth in section 4104.18 of the Revised Code. The application 28757
shall contain information satisfactory to the superintendent to 28758
demonstrate that the applicant meets the requirements of division 28759
(B) of this section. The application shall be filed with the 28760
superintendent not more than sixty days and not less than thirty 28761
days before the license examination is offered. 28762

(B) To qualify to take the examination required to obtain a steam engineer, high pressure boiler operator, or low pressure boiler operator license, a person shall meet both of the following requirements:

(1) Be at least eighteen years of age;

(2) Have one year of experience in the operation of steam engines, high pressure boilers, or low pressure boilers as applicable to the type of license being sought, or a combination of experience and education for the type of license sought as determined to be acceptable by the superintendent.

(C) No applicant shall qualify to take an examination or to renew a license if the applicant has violated this chapter or if the applicant has obtained or renewed a license issued under this chapter by fraud, misrepresentation, or deception.

(D) The superintendent shall issue a license to each applicant who receives a passing score on the examination, as determined by the superintendent, for the license for which the applicant applied.

(E) The superintendent ~~shall~~ may select and contract with one or more persons to do all of the following relative to the examinations for a license to operate as a steam engineer, high pressure boiler operator, or low pressure boiler operator:

(1) Prepare, administer, score, and maintain the confidentiality of the examination;

(2) Maintain responsibility for all expenses required to fulfill division (E)(1) of this section;

(3) Charge each applicant a fee for administering the examination, in an amount authorized by the superintendent;

(4) Design the examination for each type of license to determine an applicant's competence to operate the equipment for

which the applicant is seeking licensure. 28793

(F) Each license issued under this chapter expires one year 28794
after the date of issue. Each person holding a valid, unexpired 28795
license may renew the license, without reexamination, by applying 28796
to the superintendent not more than ninety days before the 28797
expiration of the license, and submitting with the application the 28798
renewal fee established in section 4104.18 of the Revised Code. 28799
Upon receipt of the renewal information and fee, the 28800
superintendent shall issue the licensee a certificate of renewal. 28801

(G) The superintendent, in accordance with Chapter 119. of 28802
the Revised Code, may suspend or revoke any license, or may refuse 28803
to issue a license under this chapter upon finding that a licensee 28804
or an applicant for a license has violated or is violating the 28805
requirements of this chapter. 28806

Sec. 4104.20. No owner or operator of any boiler shall 28807
operate the same in violation of sections 4104.11 to 4104.16, 28808
inclusive, and 4104.18 of the Revised Code, or of any rule or 28809
regulation adopted by the board of building standards, pursuant to 28810
section 4104.02 of the Revised Code, or without having a boiler 28811
inspected and a certificate of operation issued therefor as 28812
provided in such sections or hinder or prevent a general or 28813
special inspector of boilers from entering any premises in or on 28814
which a boiler is situated for the purpose of inspection. No owner 28815
or operator of any ~~unfired~~ pressure vessel shall operate the same 28816
in violation of section 4104.10 of the Revised Code, or of any 28817
rule or regulation adopted by the board of building standards, 28818
pursuant to section 4104.02 of the Revised Code. 28819

Sec. 4104.41. ~~(A)~~ As used in sections 4104.41 to ~~4104.45~~ 28820
4104.48 of the Revised Code: 28821

~~(1)~~(A) "Liquefied petroleum gas" means any material which is 28822

composed predominantly of any of the following hydrocarbons, or 28823
mixtures of the same: propane, propylene, normal butane, or 28824
isobutane or butylenes. 28825

~~(2)(B) "Other gaseous piping systems" excludes natural gas 28826
piping gas systems. 28827~~

~~(B) The director of commerce shall appoint general inspectors 28828
of power, refrigerating, hydraulic, heating, and liquefied 28829
petroleum gas piping systems. Such inspectors shall be appointed 28830
from holders of certificates of competency provided for in section 28831
4104.42 of the Revised Code. 28832~~

~~Salaries shall be appropriated in the same manner as the 28833
salaries of other employees of state departments, and expenses of 28834
such general inspectors shall be provided for in the same manner 28835
as the expenses of other employees of state departments. 28836~~

Sec. 4104.42. (A) Each manufacturer, contractor, owner, or 28837
user of power, refrigerating, hydraulic, heating and liquefied 28838
petroleum gas, oxygen, or other gaseous piping systems shall 28839
conduct tests required under rules adopted by the board of 28840
building standards under division (A)(1) of section 4104.44 of the 28841
Revised Code and certify in writing on forms provided under 28842
section 4104.43 of the Revised Code by the superintendent of 28843
industrial compliance in the department of commerce that the 28844
welding and brazing procedures used in the construction of those 28845
power, refrigerating, hydraulic, heating and liquefied petroleum 28846
gas, oxygen, or other gaseous piping systems meet the standards 28847
established by the board under division (A)(1) of section 4104.44 28848
of the Revised Code. 28849

(B) Each manufacturer, contractor, owner, or user of power, 28850
refrigerating, hydraulic, heating and liquefied petroleum gas, 28851
oxygen, or other gaseous piping systems who causes welding or 28852
brazing to be performed in the construction of power, 28853

refrigerating, hydraulic, heating and liquefied petroleum gas, 28854
oxygen, or other gaseous piping systems shall maintain at least 28855
one copy of the forms described in division (A) of this section 28856
and make that copy accessible to any individual certified by the 28857
board of building standards pursuant to division (E) of section 28858
3781.10 of the Revised Code. 28859

(C) An individual certified by the board of building 28860
standards pursuant to division (E) of section 3781.10 of the 28861
Revised Code shall examine the forms described in division (A) of 28862
this section to determine compliance with the rules adopted by the 28863
board of building standards under division (A)(1) of section 28864
4104.44 of the Revised Code. 28865

(D) An individual certified by the board of building 28866
standards pursuant to division (E) of section 3781.10 of the 28867
Revised Code with reason to question the certification or ability 28868
of any welder or brazer shall report the concerns to the 28869
superintendent of the division of industrial compliance in the 28870
department of commerce. The superintendent shall investigate those 28871
concerns. If the superintendent finds facts that substantiate the 28872
concerns of the individual certified by the board of building 28873
standards pursuant to division (E) of section 3781.10 of the 28874
Revised Code, the superintendent may require the welder or brazer 28875
in question to become recertified by a private vendor in the same 28876
manner by which five-year recertification is required under 28877
section 4104.46 of the Revised Code. The superintendent also may 28878
utilize the services of an independent testing laboratory to 28879
witness the welding or brazing performed on the project in 28880
question and to conduct tests on coupons to determine whether the 28881
coupons meet the requirements of the rules adopted by the board of 28882
building standards under division (A)(1) of section 4104.44 of the 28883
Revised Code. 28884

Sec. 4104.43. (A) Each manufacturer, contractor, owner, or user of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems who causes welding or brazing to be performed in the construction of a power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping system shall file with the superintendent of the division of industrial compliance two complete copies of forms provided by the superintendent that identify the welding and brazing procedure specifications and welder and brazer performance qualifications performed in the construction of that power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping system.

(B)(1) Upon receipt of the forms filed under division (A) of this section, the superintendent shall review the welding and brazing procedure specifications and welder and brazer performance qualifications as indicated on the forms to determine compliance with rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code.

(2) If the superintendent finds that the welding and brazing procedure specifications and welder and brazer performance qualifications comply with the requirements of the rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code, the superintendent shall approve the welding and brazing procedure specifications and welder and brazer performance qualifications as indicated on the forms and return one copy to the manufacturer, contractor, owner, or user of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems who submitted the forms.

(3) If the superintendent finds that the welding and brazing procedure specifications and welder and brazer performance

qualifications do not comply with the requirements of the rules 28916
adopted by the board of building standards under division (A)(1) 28917
of section 4104.44 of the Revised Code, the superintendent shall 28918
indicate on the forms that the welding and brazing procedure 28919
specifications and welder and brazer performance qualifications 28920
are not approved and return one copy of the form to the 28921
manufacturer, contractor, owner, or user of power, refrigerating, 28922
hydraulic, heating and liquefied petroleum gas, oxygen, or other 28923
gaseous piping systems who submitted the forms with an explanation 28924
of why the welding and brazing procedure specifications and welder 28925
and brazer performance qualifications were not approved. 28926

Sec. 4104.44. (A) The board of building standards, 28927
established by section 3781.07 of the Revised Code, shall: 28928

(1) ~~Formulate~~ Adopt rules governing the design, plan review, 28929
approval, construction, and installation of power, refrigerating, 28930
hydraulic, heating, and liquefied petroleum gas, oxygen, and other 28931
gaseous piping systems. ~~Such~~ The rules shall prescribe uniform 28932
minimum standards necessary for the protection of the public 28933
health and safety and shall include rules establishing the safe 28934
working pressure to be carried by any such systems; a program for 28935
the certification of the welding and brazing procedures proposed 28936
to be used on any such system by the owner or operator of any 28937
welding or brazing business and for quinquennial performance 28938
testing of welders and brazers who work on any such system; and 28939
measures for the conservation of energy. ~~Such~~ The rules shall be 28940
based upon and follow generally accepted engineering standards, 28941
formulas, and practices established and pertaining to such piping 28942
construction, installation, and testing. The board may, for this 28943
purpose, adopt existing published standards, as well as amendments 28944
thereto subsequently published by the same authority. 28945

(2) Prescribe the tests, to ascertain the qualities of 28946

materials and welding and brazing materials used in the 28947
construction of power, refrigerating, hydraulic, heating, and 28948
liquefied petroleum gas, oxygen, and other gaseous piping systems; 28949

(3) Make a standard form of certificate of inspection; 28950

(4) Prescribe ~~the examinations for applicants for~~ 28951
~~certificates of competency provided for in section 4104.42 of the~~ 28952
~~Revised Code and~~ performance tests to determine the proficiency of 28953
welders and brazers; 28954

(5) Certify municipal and county building departments to 28955
inspect power, refrigerating, hydraulic, heating, and liquefied 28956
petroleum gas, oxygen, and other gaseous piping systems and adopt 28957
rules governing such certification; 28958

~~(6) Establish the fee to be charged for an inspection made by~~ 28959
~~a general inspector and for the filing and auditing of special~~ 28960
~~inspector reports, and collect all fees established in this~~ 28961
~~section.~~ 28962

The fee for the quinquennial performance tests shall be 28963
fifteen dollars and the fee for certification of welding and 28964
brazing procedures mentioned in division (A) of this section shall 28965
be sixty dollars, except that the board of building standards, 28966
with the approval of the controlling board, may establish fees in 28967
excess of these fees, provided that the fees do not exceed the 28968
amounts of these fees by more than fifty per cent. The fee for 28969
each welding and brazing instruction sheet and procedure 28970
qualification record shall be fifteen dollars. Any moneys 28971
collected under this section shall be paid into the state treasury 28972
to the credit of the industrial compliance operating fund created 28973
in section 121.084 of the Revised Code. 28974

(B) ~~Piping is exempt from the requirements for submission of~~ 28975
~~applications and inspections and the necessity to obtain permits,~~ 28976
~~as required under this section and section 4104.45 of the Revised~~ 28977

~~Code, or under rules adopted pursuant to those sections, for 28978
power, refrigerating, hydraulic, heating, and liquefied petroleum 28979
gas, oxygen, and gaseous piping systems if the piping is used: 28980~~

~~(1) In air cooling systems in residential or commercial 28981
buildings and if such systems do not exceed five tons (sixty 28982
thousand British thermal units per hour) per system; or 28983~~

~~(2) In air heating systems in residential or commercial 28984
buildings and if such systems do not exceed one hundred fifty 28985
thousand British thermal units per hour per system. 28986~~

~~(C) The board of building standards may, by rule, exempt from 28987
the rules adopted pursuant to division (A)(1) of this section any 28988
pressure piping power, refrigerating, hydraulic, heating and 28989
liquefied petroleum gas, oxygen, or other gaseous piping systems 28990
which that pose no appreciable danger to the public health and 28991
safety. 28992~~

Sec. 4104.45. (A) Except as otherwise provided in section 28993
4104.44 of the Revised Code, new power, refrigerating, hydraulic, 28994
heating, liquefied petroleum gas, oxygen, and other gaseous piping 28995
systems shall be thoroughly inspected in accordance with the rules 28996
of the board of building standards. Such ~~inspection~~ inspections 28997
shall be performed by ~~one of the following:~~ 28998

~~(1) General inspectors of pressure piping systems; 28999~~

~~(2) Special inspectors provided for in section 4104.43 of the 29000
Revised Code; 29001~~

~~(3) Local inspectors provided for in section 4104.43 of the 29002
Revised Code. 29003~~

~~(B) Owners or users of pressure piping systems required to be 29004
inspected under this section shall pay to the division of 29005
industrial compliance in the department of commerce a fee of one 29006
hundred fifty dollars plus an additional fee determined as 29007~~

follows: 29008

~~(1) On or before June 30, 2000, two per cent of the actual cost of the system for each inspection made by a general inspector;~~ 29009
29010
29011

~~(2) On July 1, 2000, and through June 30, 2001, one and eight tenths per cent of the actual cost of the system for each inspection made by a general inspector;~~ 29012
29013
29014

~~(3) On and after July 1, 2001, one per cent of the actual cost of the system for each inspection made by a general inspector.~~ 29015
29016
29017

~~(C) The board of building standards, subject to the approval of the controlling board, may establish a fee in excess of the fee provided in division (B) of this section, provided that the fee does not exceed the amount established in this section by more than fifty per cent.~~ 29018
29019
29020
29021
29022

~~(D) In addition to the fee assessed in division (B) of this section, the board of building standards shall assess the owner or user a fee of three dollars and twenty five cents for each system inspected pursuant to this section. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent of the division of industrial compliance in the department of commerce shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.~~ 29023
29024
29025
29026
29027
29028
29029
29030
29031

~~(E) Any moneys collected under this section shall be paid into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.~~ 29032
29033
29034

~~(F) Any person who fails to pay an inspection fee required for any inspection conducted by the division pursuant to this chapter within forty five days after the inspection is conducted shall pay a late payment fee equal to twenty five per cent of the~~ 29035
29036
29037
29038

inspection fee inspectors designated by the superintendent of the 29039
division of industrial compliance in the department of commerce 29040
or, within jurisdictional limits established by the board of 29041
building standards, by individuals certified by the board of 29042
building standards pursuant to division (E) of section 3781.10 of 29043
the Revised Code who are designated to do so by local building 29044
departments, as appropriate. 29045

(G)(B) The superintendent of the division of industrial 29046
compliance in the department of commerce may issue adjudication 29047
orders as necessary for the enforcement of sections 4104.41 to 29048
4104.46 4104.48 of the Revised Code and rules adopted under those 29049
sections. No person shall violate or fail to comply with the terms 29050
and conditions of an adjudication order issued under this 29051
division. Adjudication orders issued pursuant to this division and 29052
appeals thereof are governed by section 3781.19 of the Revised 29053
Code. 29054

Sec. 4104.46. (A) The design, installation, and testing of 29055
nonflammable medical gas and vacuum piping systems within the 29056
scope of the national fire protection association standard, 29057
section 1-1 of "NFPA 99C, Gas and Vacuum Systems," is governed by 29058
that national fire protection association standard. 29059

(B) Installers, inspectors, verifiers, construction 29060
contracting maintenance personnel, and instructors for the design, 29061
installation, and testing of nonflammable medical gas and vacuum 29062
piping systems shall obtain certification by the American society 29063
of sanitary engineers in accordance with the American society of 29064
sanitary engineering series 6000 requirements. 29065

Sec. 4104.47. (A) No individual other than one certified by a 29066
private vendor in accordance with rules adopted by the board of 29067
building standards shall perform welding or brazing or both in the 29068

construction of power, refrigerating, hydraulic, heating and 29069
liquefied petroleum gas, oxygen, or other gaseous piping systems. 29070

(B) Each welder or brazer certified by a private vendor to 29071
perform welding or brazing or both in the construction of power, 29072
refrigerating, hydraulic, heating and liquefied petroleum gas, 29073
oxygen, or other gaseous piping systems shall be recertified by a 29074
private vendor to perform those services five years after the date 29075
of the original certification and every five years thereafter in 29076
accordance with rules adopted by the board. A private vendor shall 29077
recertify a welder or brazer who meets the requirements 29078
established by the board under division (A)(1) of section 4104.44 29079
of the Revised Code. 29080

Sec. ~~4104.46~~ 4104.48. (A) No person shall violate sections 29081
4104.41 to ~~4104.46~~ 4104.48 of the Revised Code, fail to perform 29082
any duty lawfully enjoined in connection with those sections, or 29083
fail to comply with any order issued by the superintendent of the 29084
division of industrial compliance or any judgment or decree issued 29085
by any court in connection with the enforcement of sections 29086
4104.41 to ~~4104.46~~ 4104.48 of the Revised Code. 29087

(B) Every day during which a person violates sections 4104.41 29088
to ~~4104.46~~ 4104.48 of the Revised Code, fails to perform any duty 29089
lawfully enjoined in connection with those sections, or fails to 29090
comply with any order issued by the superintendent of the division 29091
of industrial compliance or any judgment or decree issued by any 29092
court in connection with the enforcement of sections 4104.41 to 29093
~~4104.46~~ 4104.48 of the Revised Code constitutes a separate 29094
offense. 29095

Sec. 4105.17. (A) The fee for each inspection, or attempted 29096
inspection that, due to no fault of a general inspector or the 29097
division of industrial compliance, is not successfully completed, 29098

by a general inspector before the operation of a permanent new 29099
elevator prior to the issuance of a certificate of operation, 29100
before operation of an elevator being put back into service after 29101
a repair, or as a result of the operation of section 4105.08 of 29102
the Revised Code and is an elevator required to be inspected under 29103
this chapter is twenty dollars plus ten dollars for each floor 29104
where the elevator stops. The superintendent of industrial 29105
compliance may assess an additional fee of one hundred twenty-five 29106
dollars plus five dollars for each floor where an elevator stops 29107
for the reinspection of an elevator when a previous attempt to 29108
inspect that elevator has been unsuccessful through no fault of a 29109
general inspector or the division of industrial compliance. 29110

(B) The fee for each inspection, or attempted inspection, 29111
that due to no fault of the general inspector or the division of 29112
industrial compliance, is not successfully completed by a general 29113
inspector before operation of a permanent new escalator or moving 29114
walk prior to the issuance of a certificate of operation, before 29115
operation of an escalator or moving walk being put back in service 29116
after a repair, or as a result of the operation of section 4105.08 29117
of the Revised Code is three hundred dollars. The superintendent 29118
of the division of industrial compliance may assess an additional 29119
fee of one hundred fifty dollars for the reinspection of an 29120
escalator or moving walk when a previous attempt to inspect that 29121
escalator or moving walk has been unsuccessful through no fault of 29122
the general inspector or the division of industrial compliance. 29123

(C) The fee for issuing or renewing a certificate of 29124
operation under section 4105.15 of the Revised Code for an 29125
elevator that is inspected every six months in accordance with 29126
division (A) of section 4105.10 of the Revised Code is ~~one~~ two 29127
hundred ~~five~~ dollars plus ten dollars for each floor where the 29128
elevator stops, except where the elevator has been inspected by a 29129
special inspector in accordance with section 4105.07 of the 29130

Revised Code. 29131

(D) The fee for issuing or renewing a certificate of 29132
operation under section 4105.05 of the Revised Code for an 29133
elevator that is inspected every twelve months in accordance with 29134
division (A) of section 4105.10 of the Revised Code is fifty-five 29135
dollars plus ten dollars for each floor where the elevator stops, 29136
except where the elevator has been inspected by a special 29137
inspector in accordance with section 4105.07 of the Revised Code. 29138

(E) The fee for issuing or renewing a certificate of 29139
operation under section 4105.15 of the Revised Code for an 29140
escalator or moving walk is three hundred dollars, except where 29141
the escalator or moving walk has been inspected by a special 29142
inspector in accordance section 4105.07 of the Revised Code. 29143

(F) All other fees to be charged for any examination given or 29144
other service performed by the division of industrial compliance 29145
pursuant to this chapter shall be prescribed by the director of 29146
commerce. The fees shall be reasonably related to the costs of 29147
such examination or other service. 29148

(G) The director of commerce, subject to the approval of the 29149
controlling board, may establish fees in excess of the fees 29150
provided in divisions (A) ~~and~~, (B), (C), (D), and (E) of this 29151
section, ~~provided that the fees do not exceed the amounts~~ 29152
~~established in divisions (A) and (B) of this section by more than~~ 29153
~~fifty per cent~~. Any moneys collected under this section shall be 29154
paid into the state treasury to the credit of the industrial 29155
compliance operating fund created in section 121.084 of the 29156
Revised Code. 29157

(H) Any person who fails to pay an inspection fee required 29158
for any inspection conducted by the division pursuant to this 29159
chapter within forty-five days after the inspection is conducted 29160
shall pay a late payment fee equal to twenty-five per cent of the 29161

inspection fee. 29162

(I) In addition to the fees assessed in divisions (A), (B), 29163
(C), ~~and (D)~~, and (E) of this section, the board of building 29164
standards shall assess a fee of three dollars and twenty-five 29165
cents for each certificate of operation or renewal thereof issued 29166
under ~~division~~ divisions (A), (B), (C), (D), or (E) of this 29167
section and for each permit issued under section 4105.16 of the 29168
Revised Code. The board shall adopt rules, in accordance with 29169
Chapter 119. of the Revised Code, specifying the manner by which 29170
the superintendent of industrial compliance shall collect and 29171
remit to the board the fees assessed under this division and 29172
requiring that remittance of the fees be made at least quarterly. 29173

(J) For purposes of this section: 29174

(1) "Escalator" means a power driven, inclined, continuous 29175
stairway used for raising or lowering passengers. 29176

(2) "Moving walk" means a passenger carrying device on which 29177
passengers stand or walk, with a passenger carrying surface that 29178
is uninterrupted and remains parallel to its direction of motion. 29179

Sec. 4112.15. There is hereby created in the state treasury 29180
the civil rights commission general reimbursement fund, which 29181
shall be used to pay operating costs of the commission. All 29182
amounts received by the commission, and all amounts awarded by a 29183
court to the commission, for attorney's fees, court costs, expert 29184
witness fees, and other litigation expenses shall be paid into the 29185
state treasury to the credit of the fund. All ~~money paid to~~ 29186
amounts received by the commission for copies of commission 29187
documents and for other goods and services furnished by the 29188
commission shall be ~~credited~~ paid into the state treasury to the 29189
credit of the fund. 29190

Sec. 4115.03. As used in sections 4115.03 to 4115.16 of the 29191

Revised Code:	29192
(A) "Public authority" means any officer, board, or	29193
commission of the state, or any political subdivision of the	29194
state, authorized to enter into a contract for the construction of	29195
a public improvement or to construct the same by the direct	29196
employment of labor, or any institution supported in whole or in	29197
part by public funds and said sections apply to expenditures of	29198
such institutions made in whole or in part from public funds.	29199
(B) "Construction" means either of the following:	29200
(1) Any new construction of any public improvement, the total	29201
overall project cost of which is fairly estimated to be more than	29202
fifty thousand dollars adjusted biennially by the director of	29203
commerce pursuant to section 4115.034 of the Revised Code and	29204
performed by other than full-time employees who have completed	29205
their probationary periods in the classified service of a public	29206
authority;	29207
(2) Any reconstruction, enlargement, alteration, repair,	29208
remodeling, renovation, or painting of any public improvement, the	29209
total overall project cost of which is fairly estimated to be more	29210
than fifteen thousand dollars adjusted biennially by the	29211
administrator pursuant to section 4115.034 of the Revised Code and	29212
performed by other than full-time employees who have completed	29213
their probationary period in the classified civil service of a	29214
public authority.	29215
(C) "Public improvement" includes all buildings, roads,	29216
streets, alleys, sewers, ditches, sewage disposal plants, water	29217
works, and all other structures or works constructed by a public	29218
authority of the state or any political subdivision thereof or by	29219
any person who, pursuant to a contract with a public authority,	29220
constructs any structure for a public authority of the state or a	29221
political subdivision thereof. When a public authority rents or	29222

leases a newly constructed structure within six months after 29223
completion of such construction, all work performed on such 29224
structure to suit it for occupancy by a public authority is a 29225
"public improvement." "Public improvement" does not include an 29226
improvement authorized by section 1515.08 of the Revised Code that 29227
is constructed pursuant to a contract with a soil and water 29228
conservation district, as defined in section 1515.01 of the 29229
Revised Code, or performed as a result of a petition filed 29230
pursuant to Chapter 6131., 6133., or 6135. of the Revised Code, 29231
wherein no less than seventy-five per cent of the project is 29232
located on private land and no less than seventy-five per cent of 29233
the cost of the improvement is paid for by private property owners 29234
pursuant to Chapter 1515., 6131., 6133., or 6135. of the Revised 29235
Code. 29236

(D) "Locality" means the county wherein the physical work 29237
upon any public improvement is being performed. 29238

(E) "Prevailing wages" means the sum of the following: 29239

(1) The basic hourly rate of pay; 29240

(2) The rate of contribution irrevocably made by a contractor 29241
or subcontractor to a trustee or to a third person pursuant to a 29242
fund, plan, or program; 29243

(3) The rate of costs to the contractor or subcontractor 29244
which may be reasonably anticipated in providing the following 29245
fringe benefits to laborers and mechanics pursuant to an 29246
enforceable commitment to carry out a financially responsible plan 29247
or program which was communicated in writing to the laborers and 29248
mechanics affected: 29249

(a) Medical or hospital care or insurance to provide such; 29250

(b) Pensions on retirement or death or insurance to provide 29251
such; 29252

(c) Compensation for injuries or illnesses resulting from occupational activities if it is in addition to that coverage required by Chapters 4121. and 4123. of the Revised Code;	29253 29254 29255
(d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;	29256 29257
(e) Life insurance;	29258
(f) Disability and sickness insurance;	29259
(g) Accident insurance;	29260
(h) Vacation and holiday pay;	29261
(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and mechanics affected;	29262 29263 29264
(j) Other bona fide fringe benefits.	29265
None of the benefits enumerated in division (E)(3) of this section may be considered in the determination of prevailing wages if federal, state, or local law requires contractors or subcontractors to provide any of such benefits.	29266 29267 29268 29269
(F) "Interested party," with respect to a particular public improvement, means:	29270 29271
(1) Any person who submits a bid for the purpose of securing the award of a contract for construction of the public improvement;	29272 29273 29274
(2) Any person acting as a subcontractor of a person mentioned in division (F)(1) of this section;	29275 29276
(3) Any bona fide organization of labor which has as members or is authorized to represent employees of a person mentioned in division (F)(1) or (2) of this section and which exists, in whole or in part, for the purpose of negotiating with employers concerning the wages, hours, or terms and conditions of employment	29277 29278 29279 29280 29281

of employees;	29282
(4) Any association having as members any of the persons mentioned in division (F)(1) or (2) of this section.	29283 29284
(G) Except as used in division (A) of this section, "officer" means an individual who has an ownership interest or holds an office of trust, command, or authority in a corporation, business trust, partnership, or association.	29285 29286 29287 29288
<u>(H) "Contractor" means a person who bids on or enters into a contract for the construction of a public improvement that is subject to this chapter and includes subcontractors and lower-tier subcontractors involved in the construction of a public improvement that is subject to this chapter.</u>	29289 29290 29291 29292 29293
<u>Sec. 4115.17. No contractor shall bid on a contract for a public improvement that is subject to this chapter unless the contractor is registered pursuant to section 4115.18 of the Revised Code or provides proof of applying for registration under that section. No public authority shall accept a bid on a public improvement from a contractor without having proof of the registration or application for registration of that contractor.</u>	29294 29295 29296 29297 29298 29299 29300
<u>No contractor shall enter into a contract for a public improvement that is subject to this chapter unless the contractor is registered pursuant to section 4115.18 of the Revised Code.</u>	29301 29302 29303
<u>Sec. 4115.18. (A) The superintendent of the division of labor and worker safety in the department of commerce shall prescribe a form for the registration of contractors who desire to bid on public improvements that are subject to this chapter. The superintendent shall design the registration form to acquire all of the following information from the contractor:</u>	29304 29305 29306 29307 29308 29309
<u>(1) The name and principal business address of the contractor;</u>	29310 29311

<u>(2) The type of business entity under which the contractor conducts business;</u>	29312
	29313
<u>(3) A list of any convictions or guilty pleas of the contractor for violations of this chapter and any other labor-related laws, and the final dispositions of those convictions or pleas;</u>	29314
	29315
	29316
	29317
<u>(4) Proof of compliance with Chapters 4121. and 4123. of the Revised Code;</u>	29318
	29319
<u>(5) Additional information as determined by the superintendent.</u>	29320
	29321
<u>(B) A contractor who desires to register shall pay an initial registration fee of three hundred dollars to the superintendent, accurately complete the registration form prescribed under division (A) of this section, and provide any additional information the superintendent requests specifically from that contractor. The superintendent shall reject any application that is not completed in its entirety. The superintendent may reject the application of any contractor who fails to supply additional information the superintendent requests specifically from that contractor.</u>	29322
	29323
	29324
	29325
	29326
	29327
	29328
	29329
	29330
	29331
<u>Sec. 4115.19. (A) The superintendent of the division of labor and worker safety in the department of commerce shall issue a certificate of registration to a contractor within thirty days after receiving from that contractor the initial registration fee, a fully completed registration form, and any additional information the superintendent requested specifically from that contractor pursuant to section 4115.18 of the Revised Code.</u>	29332
	29333
	29334
	29335
	29336
	29337
	29338
<u>(B)(1) The initial certificate of registration and the first renewal of a certificate of registration each are valid for one year after the date of issuance. For the first renewal, a</u>	29339
	29340
	29341

contractor who desires to renew registration shall pay a renewal 29342
fee of three hundred dollars to the superintendent not less than 29343
thirty days before the expiration date of the contractor's initial 29344
certificate of registration. Except as provided in division (B)(2) 29345
of this section, thereafter, a contractor shall pay a renewal fee 29346
of three hundred dollars to the superintendent not less than 29347
thirty days before the expiration date of the contractor's current 29348
certificate of registration. 29349

(2) After two consecutive years of registration, a contractor 29350
may elect to register for a two-year period and pay a registration 29351
fee of five hundred dollars not less than thirty days before the 29352
expiration date of the contractor's current certificate of 29353
registration. A certificate of registration that is renewed under 29354
division (B)(2) of this section is valid for two years after the 29355
date of issuance. 29356

Sec. 4115.20. (A) The superintendent of the division of labor 29357
and worker safety in the department of commerce shall deposit all 29358
registration fees collected pursuant to section 4115.19 of the 29359
Revised Code into the state treasury to the credit of the 29360
prevailing wage administration fund, which is hereby created. 29361

(B) The director of commerce shall assess the prevailing wage 29362
administration fund a proportionate share of the administrative 29363
costs of the department of commerce in accordance with procedures 29364
prescribed by the director of commerce, with the approval of the 29365
director of budget and management. The assessment shall be paid 29366
from the prevailing wage administration fund to the division of 29367
administration fund created in section 121.08 of the Revised Code. 29368

(C) Money credited to the prevailing wage administration fund 29369
shall be used for the administration of this chapter and for the 29370
administrative assessment described in division (B) of this 29371
section. 29372

(D) If the director determines that funds in the prevailing wage administration fund exceed the amount necessary to fund all the expenses incurred to administer this chapter in any biennium, the director may reduce the amount of the fees collected pursuant to section 4115.19 of the Revised Code.

Sec. 4117.02. (A) There is hereby created the state employment relations board, consisting of three members to be appointed by the governor with the advice and consent of the senate. Members shall be knowledgeable about labor relations or personnel practices. No more than two of the three members shall belong to the same political party. A member of the board during the member's period of service shall hold no other public office or public or private employment and shall allow no other responsibilities to interfere or conflict with the member's duties as a full-time board member. Of the initial appointments made to the board, one shall be for a term ending October 6, 1984, one shall be for a term ending October 6, 1985, and one shall be for a term ending October 6, 1986. Thereafter, terms of office shall be for six years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member is appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The

~~The governor shall designate one member to serve as chairperson of the board.~~ The governor may remove any member of the board, upon notice and public hearing, for neglect of duty or

malfeasance in office, but for no other cause. 29404

(B) A (1) The governor shall designate one member of the 29405
board to serve as chairperson of the board. The chairperson is the 29406
head of the board and its chief executive officer. 29407

(2) The chairperson shall exercise all administrative powers 29408
and duties conferred upon the board under this chapter and shall 29409
do all of the following: 29410

(a) Except as provided in division (F)(2) of this section, 29411
employ, promote, supervise, and remove all employees of the board, 29412
and establish, change, or abolish positions and assign or reassign 29413
the duties of those employees as the chairperson determines 29414
necessary to achieve the most efficient performance of the board's 29415
duties under this chapter; 29416

(b) Maintain the office of the board in Columbus and manage 29417
the office's daily operations, including securing facilities, 29418
equipment, and supplies necessary to house the board, employees of 29419
the board, and files and records under the board's control; 29420

(c) Prepare and submit to the office of budget and management 29421
a budget for each biennium according to section 107.03 of the 29422
Revised Code, and include in the budget the costs of the board and 29423
its staff and the board's costs in discharging any duty imposed by 29424
law upon the board, the chairperson, or any of the board's 29425
employees or agents. 29426

(C) The vacancy on the board does not impair the right of the 29427
remaining members to exercise all the powers of the board, and two 29428
members of the board, at all times, constitute a quorum. The board 29429
shall have an official seal of which courts shall take judicial 29430
notice. 29431

~~(C)~~(D) The board shall make an annual report in writing to 29432
the governor and to the general assembly, stating in detail the 29433
work it has done. 29434

~~(D)~~(E) Compensation of the chairperson and members shall be 29435
in accordance with division (J) of section 124.15 of the Revised 29436
Code. The chairperson and the members are eligible for 29437
reappointment. In addition to such compensation, all members shall 29438
be reimbursed for their necessary expenses incurred in the 29439
performance of their work as members. 29440

~~(E)~~(F)(1) The chairperson, after consulting with the other 29441
board members and receiving the consent of at least one other 29442
board member, shall appoint an executive director ~~and~~. The 29443
chairperson also shall appoint attorneys, and attorney-trial 29444
examiners, mediators, arbitrators, members of fact finding panels, 29445
directors for local areas, and other employees as it finds 29446
necessary for the proper performance of its duties and may 29447
prescribe their duties. The 29448

(2) The board shall appoint mediators, arbitrators, members 29449
of fact-finding panels, and directors for local areas, and shall 29450
prescribe their job duties. 29451

(G)(1) The executive director shall serve at the pleasure of 29452
the chairperson. The executive director, under the direction of 29453
the chairperson, shall do all of the following: 29454

(a) Act as chief administrative officer for the board; 29455

(b) Ensure that all employees of the board comply with the 29456
rules of the board; 29457

(c) Do all things necessary for the efficient and effective 29458
implementation of the duties of the board. 29459

(2) The duties of the executive director described in 29460
division (G)(1) of this section do not relieve the chairperson 29461
from final responsibility for the proper performance of the duties 29462
described in that division. 29463

(H) The attorney general shall be the legal adviser of the 29464

board and shall appear for and represent the board and its agents 29465
in all legal proceedings. The board may utilize regional, local, 29466
or other agencies, and utilize voluntary and uncompensated 29467
services as needed. The board may contract with the federal 29468
mediation and conciliation service for the assistance of 29469
mediators, arbitrators, and other personnel the service makes 29470
available. The board and the chairperson, respectively, shall 29471
appoint all employees on the basis of training, practical 29472
experience, education, and character, notwithstanding the 29473
requirements established by section 119.09 of the Revised Code. 29474
The board shall give special regard to the practical training and 29475
experience that employees have for the particular position 29476
involved. All full-time employees of the board excepting the 29477
executive director, the head of the bureau of mediation, and the 29478
personal secretaries and assistants of the board members are in 29479
the classified service. All employees of the board shall be paid 29480
in accordance with Chapter 124. of the Revised Code. 29481

~~(F)~~(I) The board shall select and assign examiners and other 29482
agents whose functions are to conduct hearings with due regard to 29483
their impartiality, judicial temperament, and knowledge. If in any 29484
proceeding under this chapter, any party prior to five days before 29485
the hearing thereto files with the board a sworn statement 29486
charging that the examiner or other agent designated to conduct 29487
the hearing is biased or partial in the proceeding, the board may 29488
disqualify the person and designate another examiner or agent to 29489
conduct the proceeding. At least ten days before any hearing, the 29490
board shall notify all parties to a proceeding of the name of the 29491
examiner or agent designated to conduct the hearing. 29492

~~(G)~~(J) The principal office of the board is in Columbus, but 29493
it may meet and exercise any or all of its powers at any other 29494
place within the state. The board may, by one or more of its 29495
employees, or any agents or agencies it designates, conduct in any 29496

part of this state any proceeding, hearing, investigation, 29497
inquiry, or election necessary to the performance of its 29498
functions; provided, that no person so designated may later sit in 29499
determination of an appeal of the decision of that cause or 29500
matter. 29501

~~(H)~~(K) In addition to the powers and functions provided in 29502
other sections of this chapter, the board shall do all of the 29503
following: 29504

(1) Create a bureau of mediation within the state employment 29505
relations board, to perform the functions provided in section 29506
4117.14 of the Revised Code. This bureau shall also establish, 29507
after consulting representatives of employee organizations and 29508
public employers, panels of qualified persons to be available to 29509
serve as members of fact-finding panels and arbitrators. 29510

(2) Conduct studies of problems involved in representation 29511
and negotiation and make recommendations for legislation; 29512

(3) Hold hearings pursuant to this chapter and, for the 29513
purpose of the hearings and inquiries, administer oaths and 29514
affirmations, examine witnesses and documents, take testimony and 29515
receive evidence, compel the attendance of witnesses and the 29516
production of documents by the issuance of subpoenas, and delegate 29517
these powers to any members of the board or any attorney-trial 29518
examiner appointed by the board for the performance of its 29519
functions; 29520

(4) Train representatives of employee organizations and 29521
public employers in the rules and techniques of collective 29522
bargaining procedures; 29523

(5) Make studies and analyses of, and act as a clearinghouse 29524
of information relating to, conditions of employment of public 29525
employees throughout the state and request assistance, services, 29526
and data from any public employee organization, public employer, 29527

or governmental unit. Public employee organizations, public 29528
employers, and governmental units shall provide such assistance, 29529
services, and data as will enable the board to carry out its 29530
functions and powers. 29531

(6) Make available to employee organizations, public 29532
employers, mediators, fact-finding panels, arbitrators, and joint 29533
study committees statistical data relating to wages, benefits, and 29534
employment practices in public and private employment applicable 29535
to various localities and occupations to assist them to resolve 29536
issues in negotiations; 29537

(7) Notwithstanding section 119.13 of the Revised Code, 29538
establish standards of persons who practice before it; 29539

(8) Adopt, amend, and rescind rules and procedures and 29540
exercise other powers appropriate to carry out this chapter. 29541
Before the adoption, amendment, or rescission of rules and 29542
procedures under this section, the board shall do all of the 29543
following: 29544

(a) Maintain a list of interested public employers and 29545
employee organizations and mail notice to such groups of any 29546
proposed rule or procedure, amendment thereto, or rescission 29547
thereof at least thirty days before any public hearing thereon; 29548

(b) Mail a copy of each proposed rule or procedure, amendment 29549
thereto, or rescission thereof to any person who requests a copy 29550
within five days after receipt of the request therefor; 29551

(c) Consult with appropriate statewide organizations 29552
representing public employers or employees who would be affected 29553
by the proposed rule or procedure. 29554

Although the board is expected to discharge these duties 29555
diligently, failure to mail any notice or copy, or to so consult 29556
with any person, is not jurisdictional and shall not be construed 29557
to invalidate any proceeding or action of the board. 29558

~~(I)~~(L) In case of neglect or refusal to obey a subpoena 29559
issued to any person, the court of common pleas of the county in 29560
which the investigation or the public hearing occurs, upon 29561
application by the board, may issue an order requiring the person 29562
to appear before the board and give testimony about the matter 29563
under investigation. The court may punish a failure to obey the 29564
order as contempt. 29565

~~(J)~~(M) Any subpoena, notice of hearing, or other process or 29566
notice of the board issued under this section may be served 29567
personally, by certified mail, or by leaving a copy at the 29568
principal office or personal residence of the respondent required 29569
to be served. A return, made and verified by the individual making 29570
the service and setting forth the manner of service, is proof of 29571
service, and a return post office receipt, when certified mail is 29572
used, is proof of service. All process in any court to which 29573
application is made under this chapter may be served in the county 29574
wherein the persons required to be served reside or are found. 29575

~~(K)~~(N) All expenses of the board, including all necessary 29576
traveling and subsistence expenses incurred by the members or 29577
employees of the board under its orders, shall be paid pursuant to 29578
itemized vouchers approved by the chairperson of the board, the 29579
executive director, or both, or such other person as the ~~board~~ 29580
chairperson designates for that purpose. 29581

~~(L)~~(O) Whenever the board determines that a substantial 29582
controversy exists with respect to the application or 29583
interpretation of this chapter and the matter is of public or 29584
great general interest, the board shall certify its final order 29585
directly to the court of appeals having jurisdiction over the area 29586
in which the principal office of the public employer directly 29587
affected by the application or interpretation is located. The 29588
chairperson shall file with the clerk of the court a certified 29589
copy of the transcript of the proceedings before the board 29590

pertaining to the final order. If upon hearing and consideration 29591
the court decides that the final order of the board is unlawful or 29592
is not supported by substantial evidence on the record as a whole, 29593
the court shall reverse and vacate the final order or modify it 29594
and enter final judgment in accordance with the modification; 29595
otherwise, the court shall affirm the final order. The notice of 29596
the final order of the board to the interested parties shall 29597
contain a certification by the chairperson of the board that the 29598
final order is of public or great general interest and that a 29599
certified transcript of the record of the proceedings before the 29600
board had been filed with the clerk of the court as an appeal to 29601
the court. For the purposes of this division, the board has 29602
standing to bring its final order properly before the court of 29603
appeals. 29604

~~(M)~~(P) Except as otherwise specifically provided in this 29605
section, the board is subject to Chapter 119. of the Revised Code, 29606
including the procedure for submission of proposed rules to the 29607
general assembly for legislative review under division (H) of 29608
section 119.03 of the Revised Code. 29609

Sec. 4117.10. (A) An agreement between a public employer and 29610
an exclusive representative entered into pursuant to this chapter 29611
governs the wages, hours, and terms and conditions of public 29612
employment covered by the agreement. If the agreement provides for 29613
a final and binding arbitration of grievances, public employers, 29614
employees, and employee organizations are subject solely to that 29615
grievance procedure and the state personnel board of review or 29616
civil service commissions have no jurisdiction to receive and 29617
determine any appeals relating to matters that were the subject of 29618
a final and binding grievance procedure. Where no agreement exists 29619
or where an agreement makes no specification about a matter, the 29620
public employer and public employees are subject to all applicable 29621
state or local laws or ordinances pertaining to the wages, hours, 29622

and terms and conditions of employment for public employees. Laws 29623
pertaining to civil rights, affirmative action, unemployment 29624
compensation, workers' compensation, the retirement of public 29625
employees, and residency requirements, the minimum educational 29626
requirements contained in the Revised Code pertaining to public 29627
education including the requirement of a certificate by the fiscal 29628
officer of a school district pursuant to section 5705.41 of the 29629
Revised Code, the provisions of division (A) of section 124.34 of 29630
the Revised Code governing the disciplining of officers and 29631
employees who have been convicted of a felony, and the minimum 29632
standards promulgated by the state board of education pursuant to 29633
division (D) of section 3301.07 of the Revised Code prevail over 29634
conflicting provisions of agreements between employee 29635
organizations and public employers. The law pertaining to the 29636
leave of absence and compensation provided under section 5923.05 29637
of the Revised Code prevails over any conflicting provisions of 29638
such agreements if the terms of the agreement contain benefits 29639
which are less than those contained in that section or the 29640
agreement contains no such terms and the public authority is the 29641
state or any agency, authority, commission, or board of the state 29642
or if the public authority is another entity listed in division 29643
(B) of section 4117.01 of the Revised Code that elects to provide 29644
leave of absence and compensation as provided in section 5923.05 29645
of the Revised Code. Except for sections 306.08, 306.12, and 29646
306.35, ~~and 4981.22~~ of the Revised Code and arrangements entered 29647
into thereunder, ~~and section 4981.21 of the Revised Code as~~ 29648
~~necessary to comply with section 13(c) of the "Urban Mass~~ 29649
~~Transportation Act of 1964," 87 Stat. 295, 49 U.S.C.A. 1609(c), as~~ 29650
~~amended, and arrangements entered into thereunder,~~ this chapter 29651
prevails over any and all other conflicting laws, resolutions, 29652
provisions, present or future, except as otherwise specified in 29653
this chapter or as otherwise specified by the general assembly. 29654
Nothing in this section prohibits or shall be construed to 29655

invalidate the provisions of an agreement establishing 29656
supplemental workers' compensation or unemployment compensation 29657
benefits or exceeding minimum requirements contained in the 29658
Revised Code pertaining to public education or the minimum 29659
standards promulgated by the state board of education pursuant to 29660
division (D) of section 3301.07 of the Revised Code. 29661

(B) The public employer shall submit a request for funds 29662
necessary to implement an agreement and for approval of any other 29663
matter requiring the approval of the appropriate legislative body 29664
to the legislative body within fourteen days of the date on which 29665
the parties finalize the agreement, unless otherwise specified, 29666
but if the appropriate legislative body is not in session at the 29667
time, then within fourteen days after it convenes. The legislative 29668
body must approve or reject the submission as a whole, and the 29669
submission is deemed approved if the legislative body fails to act 29670
within thirty days after the public employer submits the 29671
agreement. The parties may specify that those provisions of the 29672
agreement not requiring action by a legislative body are effective 29673
and operative in accordance with the terms of the agreement, 29674
provided there has been compliance with division (C) of this 29675
section. If the legislative body rejects the submission of the 29676
public employer, either party may reopen all or part of the entire 29677
agreement. 29678

As used in this section, "legislative body" includes the 29679
general assembly, the governing board of a municipal corporation, 29680
school district, college or university, village, township, or 29681
board of county commissioners or any other body that has authority 29682
to approve the budget of their public jurisdiction. 29683

(C) The chief executive officer, or the chief executive 29684
officer's representative, of each municipal corporation, the 29685
designated representative of the board of education of each school 29686
district, college or university, or any other body that has 29687

authority to approve the budget of their public jurisdiction, the 29688
designated representative of the board of county commissioners and 29689
of each elected officeholder of the county whose employees are 29690
covered by the collective negotiations, and the designated 29691
representative of the village or the board of township trustees of 29692
each township is responsible for negotiations in the collective 29693
bargaining process; except that the legislative body may accept or 29694
reject a proposed collective bargaining agreement. When the 29695
matters about which there is agreement are reduced to writing and 29696
approved by the employee organization and the legislative body, 29697
the agreement is binding upon the legislative body, the employer, 29698
and the employee organization and employees covered by the 29699
agreement. 29700

(D) There is hereby established an office of collective 29701
bargaining in the department of administrative services for the 29702
purpose of negotiating with and entering into written agreements 29703
between state agencies, departments, boards, and commissions and 29704
the exclusive representative on matters of wages, hours, terms and 29705
other conditions of employment and the continuation, modification, 29706
or deletion of an existing provision of a collective bargaining 29707
agreement. Nothing in any provision of law to the contrary shall 29708
be interpreted as excluding the bureau of workers' compensation 29709
and the industrial commission from the preceding sentence. This 29710
office shall not negotiate on behalf of other statewide elected 29711
officials or boards of trustees of state institutions of higher 29712
education who shall be considered as separate public employers for 29713
the purposes of this chapter; however, the office may negotiate on 29714
behalf of these officials or trustees where authorized by the 29715
officials or trustees. The staff of the office of collective 29716
bargaining are in the unclassified service. The director of 29717
administrative services shall fix the compensation of the staff. 29718

The office of collective bargaining shall: 29719

(1) Assist the director in formulating management's philosophy for public collective bargaining as well as planning bargaining strategies;	29720 29721 29722
(2) Conduct negotiations with the exclusive representatives of each employee organization;	29723 29724
(3) Coordinate the state's resources in all mediation, fact-finding, and arbitration cases as well as in all labor disputes;	29725 29726 29727
(4) Conduct systematic reviews of collective bargaining agreements for the purpose of contract negotiations;	29728 29729
(5) Coordinate the systematic compilation of data by all agencies that is required for negotiating purposes;	29730 29731
(6) Prepare and submit an annual report and other reports as requested to the governor and the general assembly on the implementation of this chapter and its impact upon state government.	29732 29733 29734 29735
Sec. 4117.14. (A) The procedures contained in this section govern the settlement of disputes between an exclusive representative and a public employer concerning the termination or modification of an existing collective bargaining agreement or negotiation of a successor agreement, or the negotiation of an initial collective bargaining agreement.	29736 29737 29738 29739 29740 29741
(B)(1) In those cases where there exists a collective bargaining agreement, any public employer or exclusive representative desiring to terminate, modify, or negotiate a successor collective bargaining agreement shall:	29742 29743 29744 29745
(a) Serve written notice upon the other party of the proposed termination, modification, or successor agreement. The party must serve the notice not less than sixty days prior to the expiration date of the existing agreement or, in the event the existing	29746 29747 29748 29749

collective bargaining agreement does not contain an expiration 29750
date, not less than sixty days prior to the time it is proposed to 29751
make the termination or modifications or to make effective a 29752
successor agreement. 29753

(b) Offer to bargain collectively with the other party for 29754
the purpose of modifying or terminating any existing agreement or 29755
negotiating a successor agreement; 29756

(c) Notify the state employment relations board of the offer 29757
by serving upon the board a copy of the written notice to the 29758
other party and a copy of the existing collective bargaining 29759
agreement. 29760

(2) In the case of initial negotiations between a public 29761
employer and an exclusive representative, where a collective 29762
bargaining agreement has not been in effect between the parties, 29763
any party may serve notice upon the board and the other party 29764
setting forth the names and addresses of the parties and offering 29765
to meet, for a period of ninety days, with the other party for the 29766
purpose of negotiating a collective bargaining agreement. 29767

If the settlement procedures specified in divisions (B), (C), 29768
and (D) of this section govern the parties, where those procedures 29769
refer to the expiration of a collective bargaining agreement, it 29770
means the expiration of the sixty-day period to negotiate a 29771
collective bargaining agreement referred to in this subdivision, 29772
or in the case of initial negotiations, it means the ninety day 29773
period referred to in this subdivision. 29774

(3) The parties shall continue in full force and effect all 29775
the terms and conditions of any existing collective bargaining 29776
agreement, without resort to strike or lock-out, for a period of 29777
sixty days after the party gives notice or until the expiration 29778
date of the collective bargaining agreement, whichever occurs 29779
later, or for a period of ninety days where applicable. 29780

(4) Upon receipt of the notice, the parties shall enter into collective bargaining. 29781
29782

(C) In the event the parties are unable to reach an agreement, they may submit, at any time prior to forty-five days before the expiration date of the collective bargaining agreement, the issues in dispute to any mutually agreed upon dispute settlement procedure which supersedes the procedures contained in this section. 29783
29784
29785
29786
29787
29788

(1) The procedures may include: 29789

(a) Conventional arbitration of all unsettled issues; 29790

(b) Arbitration confined to a choice between the last offer of each party to the agreement as a single package; 29791
29792

(c) Arbitration confined to a choice of the last offer of each party to the agreement on each issue submitted; 29793
29794

(d) The procedures described in division (C)(1)(a), (b), or (c) of this section and including among the choices for the arbitrator, the recommendations of the fact finder, if there are recommendations, either as a single package or on each issue submitted; 29795
29796
29797
29798
29799

(e) Settlement by a citizens' conciliation council composed of three residents within the jurisdiction of the public employer. The public employer shall select one member and the exclusive representative shall select one member. The two members selected shall select the third member who shall chair the council. If the two members cannot agree upon a third member within five days after their appointments, the board shall appoint the third member. Once appointed, the council shall make a final settlement of the issues submitted to it pursuant to division (G) of this section. 29800
29801
29802
29803
29804
29805
29806
29807
29808
29809

(f) Any other dispute settlement procedure mutually agreed to 29810

by the parties. 29811

(2) If, fifty days before the expiration date of the 29812
collective bargaining agreement, the parties are unable to reach 29813
an agreement, any party may request the state employment relations 29814
board to intervene. The request shall set forth the names and 29815
addresses of the parties, the issues involved, and, if applicable, 29816
the expiration date of any agreement. 29817

The board shall intervene and investigate the dispute to 29818
determine whether the parties have engaged in collective 29819
bargaining. 29820

If an impasse exists or forty-five days before the expiration 29821
date of the collective bargaining agreement if one exists, the 29822
board shall appoint a mediator to assist the parties in the 29823
collective bargaining process. 29824

~~(3) If the mediator after assisting the parties advises the 29825
board that the parties have reached an impasse, or not later than 29826
thirty one days prior to the expiration date of the agreement Any 29827
time after the appointment of a mediator, either party may request 29828
the appointment of a fact-finding panel. Within fifteen days after 29829
receipt of a request for a fact-finding panel, the board shall 29830
appoint ~~within one day~~ a fact-finding panel of not more than three 29831
members who have been selected by the parties in accordance with 29832
rules established by the board, from a list of qualified persons 29833
maintained by the board. 29834~~

(a) The fact-finding panel shall, in accordance with rules 29835
and procedures established by the board that include the 29836
regulation of costs and expenses of fact-finding, gather facts and 29837
make recommendations for the resolution of the matter. The board 29838
shall by its rules require each party to specify in writing the 29839
unresolved issues and its position on each issue to the 29840
fact-finding panel. The fact-finding panel shall make final 29841

recommendations as to all the unresolved issues. 29842

(b) The board may continue mediation, order the parties to 29843
engage in collective bargaining until the expiration date of the 29844
agreement, or both. 29845

(4) The following guidelines apply to fact-finding: 29846

(a) The fact-finding panel may establish times and place of 29847
hearings which shall be, where feasible, in the jurisdiction of 29848
the state. 29849

(b) The fact-finding panel shall conduct the hearing pursuant 29850
to rules established by the board. 29851

(c) Upon request of the fact-finding panel, the board shall 29852
issue subpoenas for hearings conducted by the panel. 29853

(d) The fact-finding panel may administer oaths. 29854

(e) The board shall prescribe guidelines for the fact-finding 29855
panel to follow in making findings. In making its recommendations, 29856
the fact-finding panel shall take into consideration the factors 29857
listed in divisions (G)(7)(a) to (f) of this section. 29858

(f) The fact-finding panel may attempt mediation at any time 29859
during the fact-finding process. From the time of appointment 29860
until the fact-finding panel makes a final recommendation, it 29861
shall not discuss the recommendations for settlement of the 29862
dispute with parties other than the direct parties to the dispute. 29863

(5) The fact-finding panel, acting by a majority of its 29864
members, shall transmit its findings of fact and recommendations 29865
on the unresolved issues to the public employer and employee 29866
organization involved and to the board no later than fourteen days 29867
after the appointment of the fact-finding panel, unless the 29868
parties mutually agree to an extension. The ~~state parties~~ shall 29869
~~pay one half share~~ the cost of the fact-finding panel. ~~The parties~~ 29870
~~each shall pay one half of the remaining costs in a manner agreed~~ 29871

to by the parties. 29872

(6)(a) Not later than seven days after the findings and 29873
recommendations are sent, the legislative body, by a three-fifths 29874
vote of its total membership, and in the case of the public 29875
employee organization, the membership, by a three-fifths vote of 29876
the total membership, may reject the recommendations; if neither 29877
rejects the recommendations, the recommendations shall be deemed 29878
agreed upon as the final resolution of the issues submitted and a 29879
collective bargaining agreement shall be executed between the 29880
parties, including the fact-finding panel's recommendations, 29881
except as otherwise modified by the parties by mutual agreement. 29882
If either the legislative body or the public employee organization 29883
rejects the recommendations, the board shall publicize the 29884
findings of fact and recommendations of the fact-finding panel. 29885
The board shall adopt rules governing the procedures and methods 29886
for public employees to vote on the recommendations of the 29887
fact-finding panel. 29888

(b) As used in division (C)(6)(a) of this section, 29889
"legislative body" means the controlling board when the state or 29890
any of its agencies, authorities, commissions, boards, or other 29891
branch of public employment is party to the fact-finding process. 29892

(D) If the parties are unable to reach agreement within seven 29893
days after the publication of findings and recommendations from 29894
the fact-finding panel or the collective bargaining agreement, if 29895
one exists, has expired, then the: 29896

(1) Public employees, who are members of a police or fire 29897
department, members of the state highway patrol, deputy sheriffs, 29898
dispatchers employed by a police, fire or sheriff's department or 29899
the state highway patrol or civilian dispatchers employed by a 29900
public employer other than a police, fire, or sheriff's department 29901
to dispatch police, fire, sheriff's department, or emergency 29902
medical or rescue personnel and units, an exclusive nurse's unit, 29903

employees of the state school for the deaf or the state school for the blind, employees of any public employee retirement system, corrections officers, guards at penal or mental institutions, special police officers appointed in accordance with sections 5119.14 and 5123.13 of the Revised Code, psychiatric attendants employed at mental health forensic facilities, or youth leaders employed at juvenile correctional facilities, shall submit the matter to a final offer settlement procedure pursuant to a board order issued forthwith to the parties to settle by a conciliator selected by the parties. The parties shall request from the board a list of five qualified conciliators and the parties shall select a single conciliator from the list by alternate striking of names. If the parties cannot agree upon a conciliator within five days after the board order, the board shall on the sixth day after its order appoint a conciliator from a list of qualified persons maintained by the board or shall request a list of qualified conciliators from the American arbitration association and appoint therefrom.

(2) Public employees other than those listed in division (D)(1) of this section have the right to strike under Chapter 4117. of the Revised Code provided that the employee organization representing the employees has given a ten-day prior written notice of an intent to strike to the public employer and to the board, and further provided that the strike is for full, consecutive work days and the beginning date of the strike is at least ten work days after the ending date of the most recent prior strike involving the same bargaining unit; however, the board, at its discretion, may attempt mediation at any time.

(E) Nothing in this section shall be construed to prohibit the parties, at any time, from voluntarily agreeing to submit any or all of the issues in dispute to any other alternative dispute settlement procedure. An agreement or statutory requirement to

arbitrate or to settle a dispute pursuant to a final offer settlement procedure and the award issued in accordance with the agreement or statutory requirement is enforceable in the same manner as specified in division (B) of section 4117.09 of the Revised Code.

(F) Nothing in this section shall be construed to prohibit a party from seeking enforcement of a collective bargaining agreement or a conciliator's award as specified in division (B) of section 4117.09 of the Revised Code.

(G) The following guidelines apply to final offer settlement proceedings under division (D)(1) of this section:

(1) The parties shall submit to final offer settlement those issues that are subject to collective bargaining as provided by section 4117.08 of the Revised Code and upon which the parties have not reached agreement and other matters mutually agreed to by the public employer and the exclusive representative; except that the conciliator may attempt mediation at any time.

(2) The conciliator shall hold a hearing within thirty days of the board's order to submit to a final offer settlement procedure, or as soon thereafter as is practicable.

(3) The conciliator shall conduct the hearing pursuant to rules developed by the board. The conciliator shall establish the hearing time and place, but it shall be, where feasible, within the jurisdiction of the state. Not later than five calendar days before the hearing, each of the parties shall submit to the conciliator, to the opposing party, and to the board, a written report summarizing the unresolved issues, the party's final offer as to the issues, and the rationale for that position.

(4) Upon the request by the conciliator, the board shall issue subpoenas for the hearing.

(5) The conciliator may administer oaths.

(6) The conciliator shall hear testimony from the parties and provide for a written record to be made of all statements at the hearing. The board shall submit for inclusion in the record and for consideration by the conciliator the written report and recommendation of the fact-finders.

(7) After hearing, the conciliator shall resolve the dispute between the parties by selecting, on an issue-by-issue basis, from between each of the party's final settlement offers, taking into consideration the following:

(a) Past collectively bargained agreements, if any, between the parties;

(b) Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

(c) The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;

(d) The lawful authority of the public employer;

(e) The stipulations of the parties;

(f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.

(8) Final offer settlement awards made under Chapter 4117. of the Revised Code are subject to Chapter 2711. of the Revised Code.

(9) If more than one conciliator is used, the determination must be by majority vote. 29997
29998

(10) The conciliator shall make written findings of fact and promulgate a written opinion and order upon the issues presented to the conciliator, and upon the record made before the conciliator and shall mail or otherwise deliver a true copy thereof to the parties and the board. 29999
30000
30001
30002
30003

(11) Increases in rates of compensation and other matters with cost implications awarded by the conciliator may be effective only at the start of the fiscal year next commencing after the date of the final offer settlement award; provided that if a new fiscal year has commenced since the issuance of the board order to submit to a final offer settlement procedure, the awarded increases may be retroactive to the commencement of the new fiscal year. The parties may, at any time, amend or modify a conciliator's award or order by mutual agreement. 30004
30005
30006
30007
30008
30009
30010
30011
30012

(12) The parties shall bear equally the cost of the final offer settlement procedure. 30013
30014

(13) Conciliators appointed pursuant to this section shall be residents of the state. 30015
30016

(H) All final offer settlement awards and orders of the conciliator made pursuant to Chapter 4117. of the Revised Code are subject to review by the court of common pleas having jurisdiction over the public employer as provided in Chapter 2711. of the Revised Code. If the public employer is located in more than one court of common pleas district, the court of common pleas in which the principal office of the chief executive is located has jurisdiction. 30017
30018
30019
30020
30021
30022
30023
30024

(I) The issuance of a final offer settlement award constitutes a binding mandate to the public employer and the exclusive representative to take whatever actions are necessary to 30025
30026
30027

implement the award. 30028

Sec. 4123.27. Information contained in the annual statement 30029
provided for in section 4123.26 of the Revised Code, and such 30030
other information as may be furnished to the bureau of workers' 30031
compensation by employers in pursuance of that section, is for the 30032
exclusive use and information of the bureau in the discharge of 30033
its official duties, and shall not be open to the public nor be 30034
used in any court in any action or proceeding pending therein 30035
unless the bureau is a party to the action or proceeding; but the 30036
information contained in the statement may be tabulated and 30037
published by the bureau in statistical form for the use and 30038
information of other state departments and the public. No person 30039
in the employ of the bureau, except those who are authorized by 30040
the administrator of workers' compensation, shall divulge any 30041
information secured by the person while in the employ of the 30042
bureau in respect to the transactions, property, claim files, 30043
records, or papers of the bureau or in respect to the business or 30044
mechanical, chemical, or other industrial process of any company, 30045
firm, corporation, person, association, partnership, or public 30046
utility to any person other than the administrator or to the 30047
superior of such employee of the bureau. 30048

Notwithstanding the restrictions imposed by this section, the 30049
governor, select or standing committees of the general assembly, 30050
the auditor of state, the attorney general, or their designees, 30051
pursuant to the authority granted in this chapter and Chapter 30052
4121. of the Revised Code, may examine any records, claim files, 30053
or papers in possession of the industrial commission or the 30054
bureau. They also are bound by the privilege that attaches to 30055
these papers. 30056

The administrator shall report to the director of job and 30057
family services or to the county director of job and family 30058

services the name, address, and social security number or other 30059
identification number of any person receiving workers' 30060
compensation whose name or social security number or other 30061
identification number is the same as that of a person required by 30062
a court or child support enforcement agency to provide support 30063
payments to a recipient or participant of public assistance, and 30064
whose name is submitted to the administrator by the director under 30065
section 5101.36 of the Revised Code. The administrator also shall 30066
inform the director of the amount of workers' compensation paid to 30067
the person during such period as the director specifies. 30068

Within fourteen days after receiving from the director of job 30069
and family services a list of the names and social security 30070
numbers of recipients or participants of public assistance 30071
pursuant to section 5101.181 of the Revised Code, the 30072
administrator shall inform the auditor of state of the name, 30073
current or most recent address, and social security number of each 30074
person receiving workers' compensation pursuant to this chapter 30075
whose name and social security number are the same as that of a 30076
person whose name or social security number was submitted by the 30077
director. The administrator also shall inform the auditor of state 30078
of the amount of workers' compensation paid to the person during 30079
such period as the director specifies. 30080

The bureau and its employees, except for purposes of 30081
furnishing the auditor of state with information required by this 30082
section, shall preserve the confidentiality of recipients or 30083
participants of public assistance in compliance with division (A) 30084
of section 5101.181 of the Revised Code. 30085

For the purposes of this section, "public assistance" means 30086
medical assistance provided through the medical assistance program 30087
established under section 5111.01 of the Revised Code, Ohio works 30088
first provided under Chapter 5107. of the Revised Code, 30089
prevention, retention, and contingency benefits and services 30090

provided under Chapter 5108. of the Revised Code, ~~or~~ disability 30091
financial assistance provided under Chapter 5115. of the Revised 30092
Code, or disability medical assistance provided under Chapter 30093
5115. of the Revised Code. 30094

Sec. 4123.41. (A) By the first day of January of each year, 30095
the bureau of workers' compensation shall furnish to the county 30096
auditor of each county and the chief fiscal officer of each taxing 30097
district in a county and of each district activity and institution 30098
mentioned in section 4123.39 of the Revised Code forms containing 30099
the premium rates applicable to the county, district, district 30100
activity, or institution as an employer, on which to report the 30101
amount of money expended by the county, district, district 30102
activity, or institution during the previous twelve calendar 30103
months for the services of employees under this chapter. 30104

(B) Each county auditor and each fiscal officer of a 30105
district, district activity, and institution shall calculate on 30106
the form it receives from the bureau under division (A) of this 30107
section the premium due as its proper contribution to the public 30108
insurance fund and issue ~~his~~ a warrant in favor of the bureau for 30109
the amount due from the county, district, district activity, or 30110
institution to the public insurance fund according to the 30111
following schedule: 30112

(1) On or before the fifteenth day of May of each year, no 30113
less than forty-five per cent of the amount due; 30114

(2) On or before the first day of September of each year, no 30115
less than the total amount due. 30116

The legislative body of any county, district, district 30117
activity, or institution may reimburse the fund from which the 30118
contribution is made by transferring to the fund from any other 30119
fund of the county, district, district activity, or institution, 30120
the proportionate amount of the contribution that should be 30121

chargeable to the fund, whether the fund is derived from taxation 30122
or otherwise. The proportionate amount of the contribution 30123
chargeable to the fund may be based on payroll, relative exposure, 30124
relative loss experience, or any combination of these factors, as 30125
determined by the legislative body. A transfer made pursuant to 30126
division (B)(2) of this section is not subject to section 5705.16 30127
of the Revised Code. 30128

(C) The bureau may investigate the correctness of the 30129
information provided by the county auditor and chief fiscal 30130
officer under division (B) of this section, and if the bureau 30131
determines at any time that the county, district, district 30132
activity, or institution has not reported the correct information, 30133
the administrator of workers' compensation may make deductions or 30134
additions as the facts warrant and take those facts into 30135
consideration in determining the current or future contributions 30136
to be made by the county, district, district activity, or 30137
institution. If the county, district, district activity, or 30138
institution does not furnish the report in the time required by 30139
this section, the administrator may fix the amount of contribution 30140
the county, district, district activity, or institution must make 30141
and certify that amount for payment. 30142

(D) The administrator shall provide a discount to any county, 30143
district, district activity, or institution that pays its total 30144
amount due to the public insurance fund on or before the fifteenth 30145
day of May of each year as its proper contribution for premiums. 30146
The administrator shall base the discount provided under this 30147
division on the savings generated by the early payment to the 30148
public insurance fund. The administrator may provide the discount 30149
through a refund to the county, district, district activity, or 30150
institution or an offset against the future contributions due to 30151
the public insurance fund from the county, district, district 30152
activity, or institution. 30153

(E) The administrator may impose an interest penalty for late payment of any amount due from a county, district, district activity, and institution at the interest rate established by the state tax commissioner pursuant to section 5703.47 of the Revised Code.

Sec. 4141.04. The director of job and family services shall maintain or ensure the existence of public employment offices that are free to the general public. These offices shall exist in such number and in such places as are necessary for the proper administration of this chapter, to perform such duties as are within the purview of the act of congress entitled "an act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes," approved June 6, 1933, as amended, which is known as the "Wagner-Peyser Act." The director shall cooperate with any official or agency of the United States having powers or duties under that act of congress and shall do and perform all things necessary to secure to this state the benefits of that act of congress in the promotion and maintenance of a system of public employment offices. That act of congress is hereby accepted by this state, in conformity with that act of congress and Title III of the "Social Security Act," and the "Federal Unemployment Tax Act," 26 U.S.C.A. 3301, as amended, and this state will observe and comply with the requirements thereof. The department of job and family services is hereby designated and constituted the agency of this state for the purposes of that act of congress.

The director may cooperate with or enter into agreements with the railroad retirement board with respect to the establishment, maintenance, and use of employment service facilities that are free to the general public.

All moneys received by this state under the act of congress

known as the Wagner-Peyser Act shall be ~~paid~~ deposited into the 30185
state treasury to the credit of the special employment service 30186
account in the ~~unemployment compensation administration~~ federal 30187
operating fund, which is hereby created. Those moneys are hereby 30188
made available to the director to be expended as provided by this 30189
section and by that act of congress. For the purpose of 30190
establishing and maintaining public employment offices that are 30191
free to the general public, the director may enter into agreements 30192
with the railroad retirement board or any other agency of the 30193
United States charged with the administration of an unemployment 30194
compensation law, with any political subdivision of this state, or 30195
with any private, nonprofit organization and as a part of any such 30196
agreement the director may accept moneys, services, or quarters as 30197
a contribution to the employment service account. 30198

The director shall maintain labor market information and 30199
employment statistics as necessary for the administration of this 30200
chapter. 30201

The director shall appoint an employee of the department to 30202
serve as an ex officio member of the governor's council to 30203
maintain a liaison between the department and the governor's 30204
council on people with disabilities. 30205

Sec. 4141.09. (A) There is hereby created an unemployment 30206
compensation fund to be administered by the state without 30207
liability on the part of the state beyond the amounts paid into 30208
the fund and earned by the fund. The unemployment compensation 30209
fund shall consist of all contributions, payments in lieu of 30210
contributions described in sections 4141.241 and 4141.242 of the 30211
Revised Code, reimbursements of the federal share of extended 30212
benefits described in section 4141.301 of the Revised Code, 30213
collected under sections 4141.01 to 4141.46 of the Revised Code, 30214
together with all interest earned upon any moneys deposited with 30215

the secretary of the treasury of the United States to the credit 30216
of the account of this state in the unemployment trust fund 30217
established and maintained pursuant to section 904 of the "Social 30218
Security Act," any property or securities acquired through the use 30219
of moneys belonging to the fund, and all earnings of such property 30220
or securities. The unemployment compensation fund shall be used to 30221
pay benefits and refunds as provided by such sections and for no 30222
other purpose. 30223

(B) The treasurer of state shall be the custodian of the 30224
unemployment compensation fund and shall administer such fund in 30225
accordance with the directions of the director of job and family 30226
services. All disbursements therefrom shall be paid by the 30227
treasurer of state on warrants drawn by the director. Such 30228
warrants may bear the facsimile signature of the director printed 30229
thereon and that of a deputy or other employee of the director 30230
charged with the duty of keeping the account of the unemployment 30231
compensation fund and with the preparation of warrants for the 30232
payment of benefits to the persons entitled thereto. Moneys in the 30233
clearing and benefit accounts shall not be commingled with other 30234
state funds, except as provided in division (C) of this section, 30235
but shall be maintained in separate accounts on the books of the 30236
depository bank. Such money shall be secured by the depository 30237
bank to the same extent and in the same manner as required by 30238
sections 135.01 to 135.21 of the Revised Code; and collateral 30239
pledged for this purpose shall be kept separate and distinct from 30240
any collateral pledged to secure other funds of this state. All 30241
sums recovered for losses sustained by the unemployment 30242
compensation fund shall be deposited therein. The treasurer of 30243
state shall be liable on the treasurer's official bond for the 30244
faithful performance of the treasurer's duties in connection with 30245
the unemployment compensation fund, such liability to exist in 30246
addition to any liability upon any separate bond. 30247

(C) The treasurer of state shall maintain within the 30248
unemployment compensation fund three separate accounts which shall 30249
be a clearing account, an unemployment trust fund account, and a 30250
benefit account. All moneys payable to the unemployment 30251
compensation fund, upon receipt thereof by the director, shall be 30252
forwarded to the treasurer of state, who shall immediately deposit 30253
them in the clearing account. Refunds of contributions, or 30254
payments in lieu of contributions, payable pursuant to division 30255
(E) of this section may be paid from the clearing account upon 30256
warrants signed by a deputy or other employee of the director 30257
charged with the duty of keeping the record of the clearing 30258
account and with the preparation of warrants for the payment of 30259
refunds to persons entitled thereto. After clearance thereof, all 30260
moneys in the clearing account shall be deposited with the 30261
secretary of the treasury of the United States to the credit of 30262
the account of this state in the unemployment trust fund 30263
established and maintained pursuant to section 904 of the "Social 30264
Security Act," in accordance with requirements of the "Federal 30265
Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301, 30266
3304(a)(3), any law in this state relating to the deposit, 30267
administration, release, or disbursement of moneys in the 30268
possession or custody of this state to the contrary 30269
notwithstanding. The benefit account shall consist of all moneys 30270
requisitioned from this state's account in the unemployment trust 30271
fund. Federal funds, other than funds received by the director 30272
under divisions (I) and (J) of this section, received for payment 30273
of federal benefits may be deposited into the benefit account 30274
solely for payment of benefits under a federal program 30275
administered by this state. Moneys so requisitioned shall be used 30276
solely for the payment of benefits and for no other purpose. 30277
Moneys in the clearing and benefit accounts may be deposited by 30278
the treasurer of state, under the direction of the director, in 30279
any bank or public depository in which general funds of the state 30280

may be deposited, but no public deposit insurance charge or 30281
premium shall be paid out of the fund. 30282

(D) Moneys shall be requisitioned from this state's account 30283
in the unemployment trust fund solely for the payment of benefits 30284
and in accordance with regulations prescribed by the director. The 30285
director shall requisition from the unemployment trust fund such 30286
amounts, not exceeding the amount standing to this state's account 30287
therein, as are deemed necessary for the payment of benefits for a 30288
reasonable future period. Upon receipt thereof, the treasurer of 30289
state shall deposit such moneys in the benefit account. 30290
Expenditures of such money in the benefit account and refunds from 30291
the clearing account shall not require specific appropriations or 30292
other formal release by state officers of money in their custody. 30293
Any balance of moneys requisitioned from the unemployment trust 30294
fund which remains unclaimed or unpaid in the benefit account 30295
after the expiration of the period for which such sums were 30296
requisitioned shall either be deducted from estimates for and may 30297
be utilized for the payment of benefits during succeeding periods, 30298
or, in the discretion of the director, shall be redeposited with 30299
the secretary of the treasury of the United States to the credit 30300
of this state's account in the unemployment trust fund, as 30301
provided in division (C) of this section. Unclaimed or unpaid 30302
federal funds redeposited with the secretary of the treasury of 30303
the United States shall be credited to the appropriate federal 30304
account. 30305

(E) No claim for an adjustment or a refund on contribution, 30306
payment in lieu of contributions, interest, or forfeiture alleged 30307
to have been erroneously or illegally assessed or collected, or 30308
alleged to have been collected without authority, and no claim for 30309
an adjustment or a refund of any sum alleged to have been 30310
excessive or in any manner wrongfully collected shall be allowed 30311
unless an application, in writing, therefor is made within four 30312

years from the date on which such payment was made. If the 30313
director ~~determins~~ determines that such contribution, payment in 30314
lieu of contributions, ~~interest~~ interest, or forfeiture, or any 30315
portion ~~thereof~~ thereof, was erroneously collected, the director 30316
shall allow such employer to make an adjustment thereof without 30317
interest in connection with subsequent contribution payments, or 30318
payments in lieu of contributions, by the employer, or the 30319
director may refund said amount, without interest, from the 30320
clearing account of the unemployment compensation fund, except as 30321
provided in division (B) of section 4141.11 of the Revised Code. 30322
For like cause and within the same period, adjustment or refund 30323
may be so made on the director's own initiative. An overpayment of 30324
contribution, payment in lieu of contributions, interest, or 30325
forfeiture for which an employer has not made application for 30326
refund prior to the date of sale of the employer's business shall 30327
accrue to the employer's successor in interest. 30328

An application for an adjustment or a refund, or any portion 30329
thereof, that is rejected is binding upon the employer unless, 30330
within thirty days after the mailing of a written notice of 30331
rejection to the employer's last known address, or, in the absence 30332
of mailing of such notice, within thirty days after the delivery 30333
of such notice, the employer files an application for a review and 30334
redetermination setting forth the reasons therefor. The director 30335
shall promptly examine the application for review and 30336
redetermination, and if a review is granted, the employer shall be 30337
promptly notified thereof, and shall be granted an opportunity for 30338
a prompt hearing. 30339

(F) If the director finds that contributions have been paid 30340
to the director in error, and that such contributions should have 30341
been paid to a department of another state or of the United States 30342
charged with the administration of an unemployment compensation 30343
law, the director may upon request by such department or upon the 30344

director's own initiative transfer to such department the amount 30345
of such contributions, less any benefits paid to claimants whose 30346
wages were the basis for such contributions. The director may 30347
request and receive from such department any contributions or 30348
adjusted contributions paid in error to such department which 30349
should have been paid to the director. 30350

(G) In accordance with section 303(c)(3) of the Social 30351
Security Act, and section 3304(a)(17) of the Internal Revenue Code 30352
of 1954 for continuing certification of Ohio unemployment 30353
compensation laws for administrative grants and for tax credits, 30354
any interest required to be paid on advances under Title XII of 30355
the Social Security Act shall be paid in a timely manner and shall 30356
not be paid, directly or indirectly, by an equivalent reduction in 30357
the Ohio unemployment taxes or otherwise, by the state from 30358
amounts in the unemployment compensation fund. 30359

(H) The treasurer of state, under the direction of the 30360
director and in accordance with the "Cash Management Improvement 30361
Act of 1990," 104 Stat. 1061, 31 U.S.C.A. 335, 6503, shall deposit 30362
amounts of interest earned by the state on funds in the benefit 30363
account established pursuant to division (C) of this section into 30364
the department of job and family services banking fees fund, which 30365
is hereby created in the state treasury for the purpose of paying 30366
related banking costs incurred by the state for the period for 30367
which the interest is calculated, except that if the deposited 30368
interest exceeds the banking costs incurred by the state for the 30369
period for which the interest is calculated, the treasurer of 30370
state shall deposit the excess interest into the unemployment 30371
trust fund. 30372

(I) The treasurer of state, under the direction of the 30373
director, shall deposit federal funds received by the director for 30374
the payment of benefits, job search, relocation, transportation, 30375
and subsistence allowances pursuant to the "Trade Act of 1974," 88 30376

Stat. 1978, 19 U.S.C.A. 2101, as amended; ~~the "North American~~ 30377
~~Free Trade Implementation Act of 1993," 107 Stat. 2057, 19~~ 30378
~~U.S.C.A. 3301, as amended; and the "Trade Act of 2002," 116 Stat.~~ 30379
~~993, 19 U.S.C.A. 3801, as amended,~~ into the Trade Act benefit 30380
account, which is hereby created for the purpose of ~~paying for~~ 30381
~~benefits, training, and support services~~ making payments specified 30382
under ~~that act~~ those acts. 30383

(J) The treasurer of state, under the direction of the 30384
director, shall deposit federal funds received by the director for 30385
training and administration pursuant to the "Trade Act of 1974," 30386
88 Stat. 1978, 19 U.S.C.A. 2101, as amended; the "North American 30387
Free Trade Agreement Implementation Act," 107 Stat. 2057 (1993), 30388
19 U.S.C.A. 3301, as amended; and the "Trade Act of 2002," 116 30389
Stat. 993, 19 U.S.C.A. 3801, as amended, into the ~~North American~~ 30390
~~Free Trade Act~~ training and administration account, which is 30391
hereby created for the purpose of ~~paying for benefits, training,~~ 30392
~~and support services~~ making payments specified under ~~that act~~ 30393
those acts. 30394

Sec. 4141.23. (A) Contributions shall accrue and become 30395
payable by each employer for each calendar year or other period as 30396
prescribed by this chapter. Such contributions become due and 30397
shall be paid by each employer to the director of job and family 30398
services for the unemployment compensation fund in accordance with 30399
such regulations as the director prescribes, and shall not be 30400
deducted, in whole or in part, from the remuneration of 30401
individuals in the employer's employ. 30402

In the payment of any contributions, a fractional part of a 30403
dollar may be disregarded unless it amounts to fifty cents or 30404
more, in which case it may be increased to the next higher dollar. 30405

(B)(1) Any contribution or payment in lieu of contribution, 30406
due from an employer on or before December 31, 1992, shall, if not 30407

paid when due, bear interest at the rate of ten per cent per 30408
annum. In such computation any fraction of a month shall be 30409
considered as a full month. 30410

(2) Any contribution, payment in lieu of contribution, 30411
interest, forfeiture, or fine due from an employer on or after 30412
January 1, 1993, shall, if not paid when due, bear interest at the 30413
annual rate of fourteen per cent compounded monthly on the 30414
aggregate receivable balance due. In such computation any fraction 30415
of a month shall be considered as a full month. 30416

(C) The director may waive the interest assessed under 30417
division (B)(2) of this section if the employer meets all of the 30418
following conditions within thirty days after the date the 30419
director mails or delivers the notice of assessment of interest: 30420

(1) Provides to the director a written request for a waiver 30421
of interest clearly demonstrating that the employer's failure to 30422
timely pay contributions, payments in lieu of contributions, 30423
interest, forfeiture, and fines was a result of circumstances 30424
beyond the control of the employer or the employer's agent, except 30425
that negligence on the part of the employer or the employer's 30426
agent shall not be considered beyond the control of the employer 30427
or the employer's agent; 30428

(2) Furnishes to the director all quarterly reports required 30429
under section 4141.20 of the Revised Code; 30430

(3) Pays in full all contributions, payments in lieu of 30431
contributions, interest, forfeiture, and fines for each quarter 30432
for which such payments are due. 30433

The director shall deny an employer's request for a waiver of 30434
interest after finding that the employer's failure to timely 30435
furnish reports or make payments as required under this chapter 30436
was due to an attempt to evade payment. 30437

(D) Any contribution, interest, forfeiture, or fine required 30438

to be paid under this chapter by any employer shall, if not paid 30439
when due, become a lien upon the real and personal property of 30440
such employer. Upon failure of such employer to pay the 30441
contributions, interest, forfeiture, or fine required to be paid 30442
under this chapter, the director shall file notice of such lien, 30443
for which there shall be no charge, in the office of the county 30444
recorder of the county in which it is ascertained that such 30445
employer owns real estate or personal property. The director shall 30446
notify the employer by mail of the lien. The absence of proof that 30447
the notice was sent does not affect the validity of the lien. Such 30448
lien shall not be valid as against the claim of any mortgagee, 30449
pledgee, purchaser, judgment creditor, or other lienholder of 30450
record at the time such notice is filed. 30451

If the employer acquires real or personal property after 30452
notice of lien is filed, such lien shall not be valid as against 30453
the claim of any mortgagee, pledgee, subsequent bona fide 30454
purchaser for value, judgment creditor, or other lienholder of 30455
record to such after-acquired property, unless the notice of lien 30456
is refiled after such property was acquired by the employer and 30457
before the competing lien attached to such after-acquired property 30458
or before the conveyance to such subsequent bona fide purchaser 30459
for value. 30460

Such notice shall be recorded in a book kept by the recorder 30461
called the "unemployment compensation lien record" and indexed 30462
therein in an alphabetical index under the name of such employer. 30463
When such unpaid contributions, interest, forfeiture, or fines 30464
have been paid, the employer may record with the recorder of the 30465
county in which such notice of lien has been filed and recorded, 30466
notice of such payment. For recording ~~such~~ the notice of payment 30467
the recorder shall charge and receive from the employer a base fee 30468
of two dollars for services and a housing trust fund fee of two 30469
dollars pursuant to section 317.36 of the Revised Code. 30470

(E) Notwithstanding other provisions in this section, the 30471
director may reduce, in whole or in part, the amount of interest, 30472
forfeiture, or fines required to be paid under this chapter if the 30473
director determines that the reduction is in the best interest of 30474
the unemployment compensation fund. 30475

(F) Assessment of contributions shall not be made after four 30476
years from the date on which such contributions became payable, 30477
and no action in court for the collection of contributions without 30478
assessment of such contributions shall be begun after the 30479
expiration of five years from the date such contributions became 30480
payable. In case of a false or fraudulent report or of a willful 30481
attempt in any manner to evade contributions, such contributions 30482
may be assessed or a proceeding in court for the collection of 30483
such contributions may be begun without assessment at any time. 30484
When the assessment of contributions has been made within such 30485
four-year period provided, action in court to collect such 30486
contributions may be begun within, but not later than, six years 30487
after such assessment. 30488

(G) In the event of a distribution of an employer's assets, 30489
pursuant to an order of any court under the law of this state, 30490
including any receivership, assignment for benefit of creditors, 30491
adjudicated insolvency, or similar proceedings, contributions, 30492
interest, forfeiture, or fine then or thereafter due have the same 30493
priority as provided by law for the payment of taxes due the state 30494
and shall be paid out of the trust fund in the same manner as 30495
provided for other claims for unpaid taxes due the state. 30496

(H) If the attorney general finds after investigation that 30497
any claim for delinquent contributions, interest, forfeitures, or 30498
fines owing to the director is uncollectible, in whole or in part, 30499
the attorney general shall recommend to the director the 30500
cancellation of such claim or any part thereof. The director may 30501
thereupon effect such cancellation. 30502

Sec. 4301.12. The division of liquor control shall provide 30503
for the custody, safekeeping, and deposit of all moneys, checks, 30504
and drafts received by it or any of its employees or agents prior 30505
to paying them to the treasurer of state as provided by section 30506
113.08 of the Revised Code. 30507

A sum equal to ~~three~~ six dollars and ~~thirty-eight~~ seventy-six 30508
cents for each gallon of spirituous liquor sold by the division 30509
during the period covered by the payment shall be paid into the 30510
state treasury to the credit of the general revenue fund. All 30511
moneys received from permit fees shall be paid to the credit of 30512
the undivided liquor permit fund established by section 4301.30 of 30513
the Revised Code. 30514

Except as otherwise provided by law, all moneys collected 30515
under Chapters 4301. and 4303. of the Revised Code shall be paid 30516
by the division into the state treasury to the credit of the 30517
liquor control fund, which is hereby created. Amounts in the 30518
liquor control fund may be used to pay the operating expenses of 30519
the liquor control commission. 30520

Whenever, in the judgment of the director of budget and 30521
management, the amount in the liquor control fund is in excess of 30522
that needed to meet the maturing obligations of the division, as 30523
working capital for its further operations, to pay the operating 30524
expenses of the commission, and for the alcohol testing program 30525
under section 3701.143 of the Revised Code, the director shall 30526
transfer the excess to the credit of the general revenue fund. 30527

Sec. 4301.30. All fees collected by the division of liquor 30528
control shall be deposited in the state treasury to the credit of 30529
the undivided liquor permit fund, which is hereby created, at the 30530
time prescribed under section 4301.12 of the Revised Code. Each 30531
payment shall be accompanied by a statement showing separately the 30532

amount collected for each class of permits in each municipal 30533
corporation and in each township outside the limits of any 30534
municipal corporation in such township. An amount equal to fifty 30535
dollars for each fee received for a D-2 permit, which is not 30536
placed in operation immediately upon a D-3 permit premises, and 30537
twenty-five dollars for each fee received for a C-2 permit, shall 30538
be paid from the undivided liquor permit fund into the general 30539
revenue fund. 30540

Prior to the fees received for a D-2 permit, which is not in 30541
operation immediately upon a D-3 permit premises, and a C-2 permit 30542
being paid into the general revenue fund, an amount equal to 30543
~~twenty-one~~ thirty-two and one-half per cent of the undivided 30544
liquor permit fund shall be paid into the statewide treatment and 30545
prevention fund, which is hereby created in the state treasury. 30546
This amount shall be appropriated by the general assembly, 30547
together with an amount equal to one and one-half per cent of the 30548
gross profit of the department of liquor control derived under 30549
division (B)(4) of section 4301.10 of the Revised Code, to the 30550
department of alcohol and drug addiction services. In planning for 30551
the allocation of and in allocating these amounts for the purposes 30552
of Chapter 3793. of the Revised Code, the department of alcohol 30553
and drug addiction services shall comply with the 30554
nondiscrimination provisions of Title VI of the Civil Rights Act 30555
of 1964, and any rules adopted thereunder. 30556

The moneys remaining in the undivided liquor permit fund 30557
shall be distributed by the superintendent of liquor control at 30558
quarterly calendar periods as follows: 30559

(A) To each municipal corporation, the aggregate amount shown 30560
by the statements to have been collected from permits therein, for 30561
the use of the general fund of the municipal corporation; 30562

(B) To each township, the aggregate amount shown by the 30563
statements to have been collected from permits in its territory, 30564

outside the limits of any municipal corporation located therein, 30565
for the use of the general fund of the township, or for fire 30566
protection purposes, including buildings and equipment in the 30567
township or in an established fire district within the township, 30568
to the extent that the funds are derived from liquor permits 30569
within the territory comprising such fire district. 30570

For the purpose of the distribution required by this section, 30571
E, H, and D permits covering boats or vessels are deemed to have 30572
been issued in the municipal corporation or township wherein the 30573
owner or operator of the vehicle, boat, vessel, or dining car 30574
equipment to which the permit relates has the owner's or 30575
operator's principal office or place of business within the state. 30576

Such distributions are subject to diminutions for refunds as 30577
prescribed in section 4301.41 of the Revised Code. If the liquor 30578
control commission is of the opinion that the police or other 30579
officers of any municipal corporation or township entitled to 30580
share in such distribution are refusing or culpably neglecting to 30581
enforce this chapter and Chapter 4303. of the Revised Code, or the 30582
penal laws of this state relating to the manufacture, importation, 30583
transportation, distribution, and sale of beer and intoxicating 30584
liquors, or if the prosecuting officer of a municipal corporation 30585
or the municipal court thereof fails to comply with the request of 30586
the commission authorized by division (A)(4) of section 4301.10 of 30587
the Revised Code, the commission by certified mail may notify the 30588
chief executive officer of the municipal corporation or the board 30589
of township trustees of the township of such failure and require 30590
the immediate cooperation of the responsible officers of the 30591
municipal corporation or township with the division of liquor 30592
control in the enforcement of such chapters and such penal laws. 30593
Within thirty days after the notice is served, the commission 30594
shall determine whether or not the requirement has been complied 30595
with. If the commission determines that the requirement has not 30596

been complied with, it may issue an order to the superintendent to 30597
withhold the distributive share of the municipal corporation or 30598
township until further order of the commission. This action of the 30599
commission is reviewable within thirty days thereafter in the 30600
court of common pleas of Franklin county. 30601

Sec. 4301.42. For the purpose of providing revenue for the 30602
support of the state, a tax is hereby levied on the sale of beer 30603
in sealed bottles and cans having twelve ounces or less of liquid 30604
content, at the rate of ~~fourteen~~ twenty-eight one-hundredths of 30605
one cent on each ounce of liquid content or fractional part of 30606
each ounce of liquid content, and on such containers in excess of 30607
twelve ounces, at the rate of ~~eighty-four~~ one cent and sixty-eight 30608
one-hundredths of one cent on each six ounces of liquid content or 30609
fractional part of each six ounces of liquid content. Sections 30610
4307.01 to 4307.12 of the Revised Code apply in the administration 30611
of that tax. Manufacturers, bottlers, and canners of and wholesale 30612
dealers in beer have the duty to pay the tax imposed by this 30613
section and are entitled to the privileges in the manner provided 30614
in section 4303.33 of the Revised Code. 30615

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of 30616
the Revised Code: 30617

(1) "Gallon" or "wine gallon" means one hundred twenty-eight 30618
fluid ounces. 30619

(2) "Sale" or "sell" includes exchange, barter, gift, 30620
distribution, and, except with respect to A-4 permit holders, 30621
offer for sale. 30622

(B) For the purposes of providing revenues for the support of 30623
the state and encouraging the grape industries in the state, a tax 30624
is hereby levied on the sale or distribution of wine in Ohio, 30625
except for known sacramental purposes, at the rate of ~~thirty~~ sixty 30626

cents per wine gallon for wine containing not less than four per 30627
cent of alcohol by volume and not more than fourteen per cent of 30628
alcohol by volume, ~~ninety-eight~~ one dollar and ninety-six cents 30629
per wine gallon for wine containing more than fourteen per cent 30630
but not more than twenty-one per cent of alcohol by volume, ~~one~~ 30631
~~dollar~~ two dollars and ~~eight~~ sixteen cents per wine gallon for 30632
vermouth, and ~~one dollar~~ two dollars and ~~forty-eight~~ ninety-six 30633
cents per wine gallon for sparkling and carbonated wine and 30634
champagne, the tax to be paid by the holders of A-2 and B-5 30635
permits or by any other person selling or distributing wine upon 30636
which no tax has been paid. From the tax paid under this section 30637
on wine, vermouth, and sparkling and carbonated wine and 30638
champagne, the treasurer of state shall credit to the Ohio grape 30639
industries fund created under section 924.54 of the Revised Code a 30640
sum equal to one cent per gallon for each gallon upon which the 30641
tax is paid. 30642

(C) For the purpose of providing revenues for the support of 30643
the state, there is hereby levied a tax on prepared and bottled 30644
highballs, cocktails, cordials, and other mixed beverages at the 30645
rate of ~~one dollar~~ two dollars and ~~twenty~~ forty cents per wine 30646
gallon to be paid by holders of A-4 permits or by any other person 30647
selling or distributing those products upon which no tax has been 30648
paid. Only one sale of the same article shall be used in computing 30649
the amount of tax due. The tax on mixed beverages to be paid by 30650
holders of A-4 permits under this section shall not attach until 30651
the ownership of the mixed beverage is transferred for valuable 30652
consideration to a wholesaler or retailer, and no payment of the 30653
tax shall be required prior to that time. 30654

(D) During the period of July 1, 2001, through June 30, 2003, 30655
from the tax paid under this section on wine, vermouth, and 30656
sparkling and carbonated wine and champagne, the treasurer of 30657
state shall credit to the Ohio grape industries fund created under 30658

section 924.54 of the Revised Code a sum equal to two cents per 30659
gallon upon which the tax is paid. The amount credited under this 30660
division is in addition to the amount credited to the Ohio grape 30661
industries fund under division (B) of this section. 30662

(E) For the purpose of providing revenues for the support of 30663
the state, there is hereby levied a tax on cider at the rate of 30664
~~twenty-four~~ forty-eight cents per wine gallon to be paid by the 30665
holders of A-2 and B-5 permits or by any other person selling or 30666
distributing cider upon which no tax has been paid. Only one sale 30667
of the same article shall be used in computing the amount of the 30668
tax due. 30669

Sec. 4303.02. Permit A-1 may be issued to a manufacturer to 30670
manufacture beer and sell beer products in bottles or containers 30671
for home use and to retail and wholesale permit holders under 30672
rules promulgated by the division of liquor control. The fee for 30673
this permit is three thousand ~~one~~ nine hundred ~~twenty-five~~ six 30674
dollars for each plant during the year covered by the permit. 30675

Sec. 4303.021. Permit A-1-A may be issued to the holder of an 30676
A-1 or A-2 permit to sell beer and any intoxicating liquor at 30677
retail, only by the individual drink in glass or from a container, 30678
provided such A-1-A permit premises are situated on the same 30679
parcel or tract of land as the related A-1 or A-2 manufacturing 30680
permit premises or are separated therefrom only by public streets 30681
or highways or by other lands owned by the holder of the A-1 or 30682
A-2 permit and used by the holder in connection with or in 30683
promotion of the holder's A-1 or A-2 permit business. The fee for 30684
this permit is three thousand ~~one~~ nine hundred ~~twenty-five~~ six 30685
dollars. The holder of an A-1-A permit may sell beer and any 30686
intoxicating liquor during the same hours as the holders of D-5 30687
permits under this chapter or Chapter 4301. of the Revised Code or 30688
the rules of the liquor control commission and shall obtain a 30689

license as a retail food establishment or a food service operation 30690
pursuant to Chapter 3717. of the Revised Code and operate as a 30691
restaurant for purposes of this chapter. 30692

Except as otherwise provided in this section, no new A-1-A 30693
permit shall be issued to the holder of an A-1 or A-2 permit 30694
unless the sale of beer and intoxicating liquor under class D 30695
permits is permitted in the precinct in which the A-1 or A-2 30696
permit is located and, in the case of an A-2 permit, unless the 30697
holder of the A-2 permit manufactures or has a storage capacity of 30698
at least twenty-five thousand gallons of wine per year. The 30699
immediately preceding sentence does not prohibit the issuance of 30700
an A-1-A permit to an applicant for such a permit who is the 30701
holder of an A-1 permit and whose application was filed with the 30702
division of liquor control before June 1, 1994. The liquor control 30703
commission shall not restrict the number of A-1-A permits which 30704
may be located within a precinct. 30705

Sec. 4303.03. Permit A-2 may be issued to a manufacturer to 30706
manufacture wine from grapes or other fruits grown in the state, 30707
if obtainable, otherwise to import such fruits after submitting an 30708
affidavit of nonavailability to the division of liquor control; to 30709
import and purchase wine in bond for blending purposes, the total 30710
amount of wine so imported during the year covered by the permit 30711
not to exceed forty per cent of all the wine manufactured and 30712
imported; to manufacture, purchase, and import brandy for 30713
fortifying purposes; and to sell such products either in glass or 30714
container for consumption on the premises where manufactured, for 30715
home use, and to retail and wholesale permit holders under such 30716
rules as are adopted by the division. 30717

The fee for this permit is ~~sixty-three~~ one hundred twenty-six 30718
dollars for each plant producing one hundred wine barrels, of 30719
fifty gallons each, or less annually. ~~Such~~ This initial fee shall 30720

be increased at the rate of ten cents per such barrel for all wine 30721
manufactured in excess of one hundred barrels during the year 30722
covered by the permit. 30723

Sec. 4303.04. Permit A-3 may be issued to a manufacturer to 30724
manufacture alcohol and spirituous liquor and sell such products 30725
to the division of liquor control or to the holders of a like 30726
permit or to the holders of A-4 permits for blending or 30727
manufacturing purposes; to import alcohol into this state upon 30728
such terms as are prescribed by the division; to sell alcohol to 30729
manufacturers, hospitals, infirmaries, medical or educational 30730
institutions using it for medicinal, mechanical, chemical, or 30731
scientific purposes, and to holders of I permits; to import into 30732
this state spirituous liquor and wine for blending or other 30733
manufacturing purposes; and to export spirituous liquor from this 30734
state for sale outside the state. 30735

The fee for this permit is three thousand ~~one~~ nine hundred 30736
~~twenty-five~~ six dollars for each plant; but, if a plant's 30737
production capacity is less than five hundred wine barrels of 30738
fifty gallons each, annually, the fee is two dollars per barrel. 30739

Sec. 4303.05. Permit A-4 may be issued to a manufacturer to 30740
manufacture prepared highballs, cocktails, cordials, and other 30741
mixed drinks containing not less than four per cent of alcohol by 30742
volume and not more than twenty-one per cent of alcohol by volume, 30743
and to sell such products to wholesale and retail permit holders 30744
in sealed containers only under such rules as are adopted by the 30745
division of liquor control. The holder of such permit may import 30746
into the state spirituous liquor and wine only for blending or 30747
other manufacturing purposes under such rules as are prescribed by 30748
the division. 30749

The holder of such permit may also purchase spirituous liquor 30750

for manufacturing and blending purposes from the holder of an A-3 30751
permit issued by the division. The formulas and the beverages 30752
manufactured by the holder of an A-4 permit ~~must~~ shall be 30753
submitted to the division for its analysis and approval before 30754
~~such~~ the beverages may be sold to or distributed in this state by 30755
holders of retail and wholesale permits. All labels and 30756
advertising matter used by the holders of ~~such~~ A-4 permits ~~must~~ 30757
shall be approved by the division before they may be used in this 30758
state. The fee for ~~this~~ an A-4 permit is three thousand ~~one~~ nine 30759
hundred ~~twenty-five~~ six dollars for each plant. 30760

Sec. 4303.06. Permit B-1 may be issued to a wholesale 30761
distributor of beer to purchase from the holders of A-1 permits 30762
and to import and distribute or sell beer for home use and to 30763
retail permit holders under rules adopted by the division of 30764
liquor control. The fee for this permit is ~~two~~ three thousand ~~five~~ 30765
one hundred ~~twenty-five~~ dollars for each distributing plant or 30766
warehouse during the year covered by the permit. 30767

Sec. 4303.07. Permit B-2 may be issued to a wholesale 30768
distributor of wine to purchase from holders of A-2 and B-5 30769
permits and distribute or sell such product, in the original 30770
container in which it was placed by the B-5 permit holder or 30771
manufacturer at the place where manufactured, to A-1-A, C-2, D-2, 30772
D-3, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, 30773
D-5h, D-5i, D-5j, D-5k, and E permit holders, and for home use. 30774
The fee for this permit is ~~two~~ five hundred ~~fifty~~ dollars for each 30775
distributing plant or warehouse. The initial fee shall be 30776
increased ten cents per wine barrel of fifty gallons for all wine 30777
distributed and sold in this state in excess of twelve hundred 30778
fifty such barrels during the year covered by the permit. 30779

Sec. 4303.08. Permit B-3 may be issued to a wholesale 30780

distributor of wine to bottle, distribute, or sell sacramental 30781
wine for religious rites upon an application signed, dated, and 30782
approved as required by section 4301.23 of the Revised Code. The 30783
fee for this permit is ~~sixty-two~~ one hundred twenty-four dollars. 30784

Sec. 4303.09. Permit B-4 may be issued to a wholesale 30785
distributor to purchase from the holders of A-4 permits and to 30786
import, distribute, and sell prepared and bottled highballs, 30787
cocktails, cordials, and other mixed beverages containing not less 30788
than four per cent of alcohol by volume and not more than 30789
twenty-one per cent of alcohol by volume to retail permit holders, 30790
and for home use, under ~~such~~ rules ~~as are~~ adopted by the division 30791
of liquor control. The formula and samples of all such beverages 30792
to be handled by the permit holder ~~must~~ shall be submitted to the 30793
division for analysis and the approval of the division before such 30794
beverages may be sold and distributed in this state. All labels 30795
and advertising matter used by the holders of ~~such permits must~~ 30796
this permit shall be approved by the division before they may be 30797
used in this state. The fee for this permit shall be computed on 30798
the basis of annual sales, and the initial fee is ~~two~~ five hundred 30799
~~fifty~~ dollars for each distributing plant or warehouse. ~~Such~~ The 30800
initial fee shall be increased at the rate of ten cents per wine 30801
barrel of fifty gallons for all such beverages distributed and 30802
sold in this state in excess of one thousand such barrels during 30803
the year covered by the permit. 30804

Sec. 4303.10. Permit B-5 may be issued to a wholesale 30805
distributor of wine to purchase wine from the holders of A-2 30806
permits, to purchase and import wine in bond or otherwise, in bulk 30807
or in containers of any size, and to bottle wine for distribution 30808
and sale to holders of A-1-A, B-2, B-3, B-5, C-2, D-2, D-3, D-4, 30809
D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, 30810
D-5j, D-5k, and E permits and for home use in sealed containers. 30811

No wine shall be bottled by a B-5 permit holder in containers 30812
supplied by any person who intends the wine for home use. The fee 30813
for this permit is one thousand ~~two~~ five hundred ~~fifty~~ sixty-three 30814
dollars. 30815

Sec. 4303.11. Permit C-1 may be issued to the owner or 30816
operator of a retail store to sell beer in containers and not for 30817
consumption on the premises where sold in original containers 30818
having a capacity of not more than five and one-sixth gallons. The 30819
fee for this permit is ~~one~~ two hundred ~~twenty-six~~ fifty-two 30820
dollars for each location. 30821

Sec. 4303.12. Permit C-2 may be issued to the owner or 30822
operator of a retail store to sell wine in sealed containers only 30823
and not for consumption on the premises where sold in original 30824
containers. The holder of ~~such~~ this permit may also sell and 30825
distribute in original packages and not for consumption on the 30826
premises where sold or for resale, prepared and bottled highballs, 30827
cocktails, cordials, and other mixed beverages manufactured and 30828
distributed by holders of A-4 and B-4 permits, and containing not 30829
less than four per cent of alcohol by volume, and not more than 30830
twenty-one per cent of alcohol by volume. The fee for this permit 30831
is ~~one~~ three hundred ~~eighty-eight~~ seventy-six dollars for each 30832
location. 30833

Sec. 4303.121. Effective October 1, 1982, permit C-2x shall 30834
be issued to the holder of a C-2 permit who does not also hold a 30835
C-1 permit, to sell beer only not for consumption on the premises 30836
where sold, in original containers having a capacity of not more 30837
than five and one-sixth gallons. Applicants for a C-2 permit as of 30838
October 1, 1982 shall be issued a C-2x permit subject to the 30839
restrictions for the issuance of the C-2 permit. The fee for a 30840
C-2x permit is ~~one~~ two hundred ~~twenty-six~~ fifty-two dollars. 30841

Sec. 4303.13. Permit D-1 may be issued to the owner or 30842
operator of a hotel ~~or~~ of a retail food establishment or a food 30843
service operation licensed pursuant to Chapter 3717. of the 30844
Revised Code that operates as a restaurant for purposes of this 30845
chapter, or of a club, amusement park, drugstore, lunch stand, 30846
boat, or vessel, ~~and shall be issued to a person described in~~ 30847
~~division (B) of this section,~~ to sell beer at retail either in 30848
glass or container, for consumption on the premises where sold; 30849
~~and, except as otherwise provided in division (B) of this section,~~ 30850
to sell beer at retail in other receptacles or in original 30851
containers having a capacity of not more than five and one-sixth 30852
gallons not for consumption on the premises where sold. The fee 30853
for this permit is ~~one~~ three hundred ~~eighty-eight~~ seventy-six 30854
dollars for each location, boat, or vessel. 30855

Sec. 4303.14. Permit D-2 may be issued to the owner or 30856
operator of a hotel ~~or~~ of a retail food establishment or a food 30857
service operation licensed pursuant to Chapter 3717. of the 30858
Revised Code that operates as a restaurant for purposes of this 30859
chapter, or of a club, boat, or vessel, to sell wine and prepared 30860
and bottled cocktails, cordials, and other mixed beverages 30861
manufactured and distributed by holders of A-4 and B-4 permits at 30862
retail, either in glass or container, for consumption on the 30863
premises where sold. The holder of ~~such~~ this permit may also sell 30864
wine and prepared and bottled cocktails, cordials, and other mixed 30865
beverages in original packages and not for consumption on the 30866
premises where sold or for resale. The fee for this permit is ~~two~~ 30867
five hundred ~~eighty-two~~ sixty-four dollars for each location, 30868
boat, or vessel. 30869

Sec. 4303.141. Effective October 1, 1982, permit D-2x shall 30870
be issued to the holder of a D-2 permit who does not also hold a 30871

D-1 permit, to sell beer at retail either in glass or container 30872
for consumption on the premises where sold and to sell beer at 30873
retail in other receptacles or original containers having a 30874
capacity of not more than five and one-sixth gallons not for 30875
consumption on the premises where sold. Applicants for a D-2 30876
permit as of October 1, 1982, shall be issued a D-2x permit 30877
subject to the quota restrictions for the issuance of the D-2 30878
permit. The fee for a D-2x permit is ~~one~~ three hundred 30879
~~eighty-eight~~ seventy-six dollars. 30880

Sec. 4303.15. Permit D-3 may be issued to the owner or 30881
operator of a hotel ~~or~~ of a retail food establishment or a food 30882
service operation licensed pursuant to Chapter 3717. of the 30883
Revised Code that operates as a restaurant for purposes of this 30884
chapter, or of a club, boat, or vessel, to sell spirituous liquor 30885
at retail, only by the individual drink in glass or from the 30886
container, for consumption on the premises where sold. No sales of 30887
intoxicating liquor shall be made by a holder of a D-3 permit 30888
after one a.m. The fee for this permit is ~~six~~ seven hundred fifty 30889
dollars for each location, boat, or vessel. 30890

Sec. 4303.151. On October 1, 1982, permit D-3x shall be 30891
issued to the holder of a D-3 permit, to sell wine by the 30892
individual drink in glass or from the container, for consumption 30893
on the premises where sold. Applications for a D-3 permit on 30894
October 1, 1982, may be issued a D-3x permit subject to the quota 30895
restrictions for the issuance of a D-3 permit. The fee for a D-3x 30896
permit is ~~one~~ three hundred fifty dollars. 30897

Sec. 4303.16. Permit D-3a may be issued to the holder of a 30898
D-3 permit whenever ~~his~~ the holder's place of business is operated 30899
after one a.m. and spirituous liquor is sold or consumed after 30900
~~such~~ that hour. The holder of such permit may sell spirituous 30901

liquor during the same hours as the holders of D-5 permits under 30902
this chapter and Chapter 4301. of the Revised Code or the rules of 30903
the liquor control commission. The fee for a D-3a permit is ~~seven~~ 30904
nine hundred ~~fifty~~ thirty-eight dollars in addition to the fee 30905
required for a D-3 permit. 30906

If the holder of a D-3a permit is also the holder of a D-1 30907
permit, ~~he~~ the holder may sell beer after one a.m. and during the 30908
same hours as the holder of a D-5 permit. If the holder of a D-3a 30909
permit is also the holder of a D-2 permit, ~~he~~ the holder may sell 30910
intoxicating liquor after one a.m. and during the same hours as 30911
the holder of a D-5 permit. The holder of a D-3a permit may 30912
furnish music and entertainment to ~~his~~ the holder's patrons, 30913
subject to the same rules as govern D-5 permit holders. 30914

Sec. 4303.17. Permit D-4 may be issued to a club ~~which~~ that 30915
has been in existence for three years or more prior to the 30916
issuance of ~~such~~ the permit to sell beer and any intoxicating 30917
liquor to its members only, in glass or container, for consumption 30918
on the premises where sold. The fee for this permit is ~~three~~ four 30919
hundred ~~seventy-five~~ sixty-nine dollars. No such permit shall be 30920
granted or retained until all elected officers of such 30921
organization controlling such club have filed with the division of 30922
liquor control a statement certifying that such club is operated 30923
in the interest of the membership of a reputable organization, 30924
which is maintained by a dues paying membership, setting forth the 30925
amount of initiation fee and yearly dues. All such matters shall 30926
be contained in a statement signed under oath and accompanied by a 30927
surety bond in the sum of one thousand dollars. Such bond shall be 30928
declared forfeited in the full amount of the penal sum of the bond 30929
for any false statement contained in such certificate and the 30930
surety shall pay the amount of the bond to the division. The 30931
roster of membership of a D-4 permit holder shall be submitted 30932
under oath on the request of the superintendent of liquor control. 30933

Any information acquired by the superintendent or the division 30934
with respect to such membership shall not be open to public 30935
inspection or examination and may be divulged by the 30936
superintendent and the division only in hearings before the liquor 30937
control commission or in a court action in which the division or 30938
the superintendent is named a party. 30939

The requirement that a club shall have been in existence for 30940
three years in order to qualify for a D-4 permit does not apply to 30941
units of organizations chartered by congress or to a subsidiary 30942
unit of a national fraternal organization if the parent 30943
organization has been in existence for three years or more at the 30944
time application for a permit is made by such unit. 30945

No rule or order of the division or commission shall prohibit 30946
a charitable organization that holds a D-4 permit from selling or 30947
serving beer or intoxicating liquor under its permit in a portion 30948
of its premises merely because that portion of its premises is 30949
used at other times for the conduct of a charitable bingo game. 30950
However, such an organization shall not sell or serve beer or 30951
intoxicating liquor or permit beer or intoxicating liquor to be 30952
consumed or seen in the same location in its premises where a 30953
charitable bingo game is being conducted while the game is being 30954
conducted. As used in this section, "charitable organization" ~~has~~ 30955
~~the same meaning as in division (H) of section 2915.01 and~~ 30956
"charitable bingo game" ~~has~~ have the same ~~meaning~~ meanings as in 30957
~~division (R) of section 2915.01 of the Revised Code.~~ 30958

Sec. 4303.171. Permit D-4a may be issued to an airline 30959
company ~~which~~ that leases and operates a premises exclusively for 30960
the benefit of the members and their guests of a private club 30961
sponsored by the airline company, at a publicly owned airport, as 30962
defined in section 4563.01 of the Revised Code, at which 30963
commercial airline companies operate regularly scheduled flights 30964

on which space is available to the public, to sell beer and any 30965
intoxicating liquor to members of the private club and their 30966
guests, only by the individual drink in glass and from the 30967
container, for consumption on the premises where sold. In addition 30968
to the privileges authorized in this section, the holder of a D-4a 30969
permit may exercise the same privileges as a holder of a D-4 30970
permit. The holder of a D-4a permit shall make no sales of beer or 30971
intoxicating liquor after two-thirty a.m. 30972

A D-4a permit shall not be transferred to another location. 30973
No quota restriction shall be placed upon the number of such 30974
permits which may be issued. 30975

The fee for this permit is ~~six~~ seven hundred fifty dollars. 30976

Sec. 4303.18. Permit D-5 may be issued to the owner or 30977
operator of a retail food establishment or a food service 30978
operation licensed pursuant to Chapter 3717. of the Revised Code 30979
that operates as a restaurant or night club for purposes of this 30980
chapter, to sell beer and any intoxicating liquor at retail, only 30981
by the individual drink in glass and from the container, for 30982
consumption on the premises where sold, and to sell the same 30983
products in the same manner and amounts not for consumption on the 30984
premises as may be sold by holders of D-1 and D-2 permits. A 30985
person who is the holder of both a D-3 and D-3a permit need not 30986
obtain a D-5 permit. The fee for this permit is ~~one~~ two thousand 30987
~~eight~~ three hundred ~~seventy-five~~ forty-four dollars. 30988

Sec. 4303.181. (A) Permit D-5a may be issued either to the 30989
owner or operator of a hotel or motel that is required to be 30990
licensed under section 3731.03 of the Revised Code, that contains 30991
at least fifty rooms for registered transient guests, and that 30992
qualifies under the other requirements of this section, or to the 30993
owner or operator of a restaurant specified under this section, to 30994

sell beer and any intoxicating liquor at retail, only by the 30995
individual drink in glass and from the container, for consumption 30996
on the premises where sold, and to registered guests in their 30997
rooms, which may be sold by means of a controlled access alcohol 30998
and beverage cabinet in accordance with division (B) of section 30999
4301.21 of the Revised Code; and to sell the same products in the 31000
same manner and amounts not for consumption on the premises as may 31001
be sold by holders of D-1 and D-2 permits. The premises of the 31002
hotel or motel shall include a retail food establishment or a food 31003
service operation licensed pursuant to Chapter 3717. of the 31004
Revised Code that operates as a restaurant for purposes of this 31005
chapter and that is affiliated with the hotel or motel and within 31006
or contiguous to the hotel or motel, and that serves food within 31007
the hotel or motel, but the principal business of the owner or 31008
operator of the hotel or motel shall be the accommodation of 31009
transient guests. In addition to the privileges authorized in this 31010
division, the holder of a D-5a permit may exercise the same 31011
privileges as the holder of a D-5 permit. 31012

The owner or operator of a hotel, motel, or restaurant who 31013
qualified for and held a D-5a permit on August 4, 1976, may, if 31014
the owner or operator held another permit before holding a D-5a 31015
permit, either retain a D-5a permit or apply for the permit 31016
formerly held, and the division of liquor control shall issue the 31017
permit for which the owner or operator applies and formerly held, 31018
notwithstanding any quota. 31019

A D-5a permit shall not be transferred to another location. 31020
No quota restriction shall be placed on the number of such permits 31021
that may be issued. 31022

The fee for this permit is ~~one~~ two thousand ~~eight~~ three 31023
hundred ~~seventy-five~~ forty-four dollars. 31024

(B) Permit D-5b may be issued to the owner, operator, tenant, 31025
lessee, or occupant of an enclosed shopping center to sell beer 31026

and intoxicating liquor at retail, only by the individual drink in 31027
glass and from the container, for consumption on the premises 31028
where sold; and to sell the same products in the same manner and 31029
amount not for consumption on the premises as may be sold by 31030
holders of D-1 and D-2 permits. In addition to the privileges 31031
authorized in this division, the holder of a D-5b permit may 31032
exercise the same privileges as a holder of a D-5 permit. 31033

A D-5b permit shall not be transferred to another location. 31034

One D-5b permit may be issued at an enclosed shopping center 31035
containing at least two hundred twenty-five thousand, but less 31036
than four hundred thousand, square feet of floor area. 31037

Two D-5b permits may be issued at an enclosed shopping center 31038
containing at least four hundred thousand square feet of floor 31039
area. No more than one D-5b permit may be issued at an enclosed 31040
shopping center for each additional two hundred thousand square 31041
feet of floor area or fraction of that floor area, up to a maximum 31042
of five D-5b permits for each enclosed shopping center. The number 31043
of D-5b permits that may be issued at an enclosed shopping center 31044
shall be determined by subtracting the number of D-3 and D-5 31045
permits issued in the enclosed shopping center from the number of 31046
D-5b permits that otherwise may be issued at the enclosed shopping 31047
center under the formulas provided in this division. Except as 31048
provided in this section, no quota shall be placed on the number 31049
of D-5b permits that may be issued. Notwithstanding any quota 31050
provided in this section, the holder of any D-5b permit first 31051
issued in accordance with this section is entitled to its renewal 31052
in accordance with section 4303.271 of the Revised Code. 31053

The holder of a D-5b permit issued before April 4, 1984, 31054
whose tenancy is terminated for a cause other than nonpayment of 31055
rent, may return the D-5b permit to the division of liquor 31056
control, and the division shall cancel that permit. Upon 31057
cancellation of that permit and upon the permit holder's payment 31058

of taxes, contributions, premiums, assessments, and other debts 31059
owing or accrued upon the date of cancellation to this state and 31060
its political subdivisions and a filing with the division of a 31061
certification of that payment, the division shall issue to that 31062
person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as 31063
that person requests. The division shall issue the D-5 permit, or 31064
the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, 31065
D-3, or D-5 permits currently issued in the municipal corporation 31066
or in the unincorporated area of the township where that person's 31067
proposed premises is located equals or exceeds the maximum number 31068
of such permits that can be issued in that municipal corporation 31069
or in the unincorporated area of that township under the 31070
population quota restrictions contained in section 4303.29 of the 31071
Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not 31072
be transferred to another location. If a D-5b permit is canceled 31073
under the provisions of this paragraph, the number of D-5b permits 31074
that may be issued at the enclosed shopping center for which the 31075
D-5b permit was issued, under the formula provided in this 31076
division, shall be reduced by one if the enclosed shopping center 31077
was entitled to more than one D-5b permit under the formula. 31078

The fee for this permit is ~~one~~ two thousand ~~eight~~ three 31079
hundred ~~seventy-five~~ forty-four dollars. 31080

(C) Permit D-5c may be issued to the owner or operator of a 31081
retail food establishment or a food service operation licensed 31082
pursuant to Chapter 3717. of the Revised Code that operates as a 31083
restaurant for purposes of this chapter and that qualifies under 31084
the other requirements of this section to sell beer and any 31085
intoxicating liquor at retail, only by the individual drink in 31086
glass and from the container, for consumption on the premises 31087
where sold, and to sell the same products in the same manner and 31088
amounts not for consumption on the premises as may be sold by 31089
holders of D-1 and D-2 permits. In addition to the privileges 31090

authorized in this division, the holder of a D-5c permit may 31091
exercise the same privileges as the holder of a D-5 permit. 31092

To qualify for a D-5c permit, the owner or operator of a 31093
retail food establishment or a food service operation licensed 31094
pursuant to Chapter 3717. of the Revised Code that operates as a 31095
restaurant for purposes of this chapter, shall have operated the 31096
restaurant at the proposed premises for not less than twenty-four 31097
consecutive months immediately preceding the filing of the 31098
application for the permit, have applied for a D-5 permit no later 31099
than December 31, 1988, and appear on the division's quota waiting 31100
list for not less than six months immediately preceding the filing 31101
of the application for the permit. In addition to these 31102
requirements, the proposed D-5c permit premises shall be located 31103
within a municipal corporation and further within an election 31104
precinct that, at the time of the application, has no more than 31105
twenty-five per cent of its total land area zoned for residential 31106
use. 31107

A D-5c permit shall not be transferred to another location. 31108
No quota restriction shall be placed on the number of such permits 31109
that may be issued. 31110

Any person who has held a D-5c permit for at least two years 31111
may apply for a D-5 permit, and the division of liquor control 31112
shall issue the D-5 permit notwithstanding the quota restrictions 31113
contained in section 4303.29 of the Revised Code or in any rule of 31114
the liquor control commission. 31115

The fee for this permit is one thousand ~~two~~ five hundred 31116
fifty sixty-three dollars. 31117

(D) Permit D-5d may be issued to the owner or operator of a 31118
retail food establishment or a food service operation licensed 31119
pursuant to Chapter 3717. of the Revised Code that operates as a 31120
restaurant for purposes of this chapter and that is located at an 31121

airport operated by a board of county commissioners pursuant to 31122
section 307.20 of the Revised Code, at an airport operated by a 31123
port authority pursuant to Chapter 4582. of the Revised Code, or 31124
at an airport operated by a regional airport authority pursuant to 31125
Chapter 308. of the Revised Code. The holder of a D-5d permit may 31126
sell beer and any intoxicating liquor at retail, only by the 31127
individual drink in glass and from the container, for consumption 31128
on the premises where sold, and may sell the same products in the 31129
same manner and amounts not for consumption on the premises where 31130
sold as may be sold by the holders of D-1 and D-2 permits. In 31131
addition to the privileges authorized in this division, the holder 31132
of a D-5d permit may exercise the same privileges as the holder of 31133
a D-5 permit. 31134

A D-5d permit shall not be transferred to another location. 31135
No quota restrictions shall be placed on the number of such 31136
permits that may be issued. 31137

The fee for this permit is ~~one~~ two thousand ~~eight~~ three 31138
hundred ~~seventy-five~~ forty-four dollars. 31139

(E) Permit D-5e may be issued to any nonprofit organization 31140
that is exempt from federal income taxation under the "Internal 31141
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 31142
amended, or that is a charitable organization under any chapter of 31143
the Revised Code, and that owns or operates a riverboat that meets 31144
all of the following: 31145

(1) Is permanently docked at one location; 31146

(2) Is designated as an historical riverboat by the Ohio 31147
historical society; 31148

(3) Contains not less than fifteen hundred square feet of 31149
floor area; 31150

(4) Has a seating capacity of fifty or more persons. 31151

The holder of a D-5e permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5e permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued. The population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission shall not apply to this division, and the division shall issue a D-5e permit to any applicant who meets the requirements of this division. However, the division shall not issue a D-5e permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

The fee for this permit is ~~nine~~ one thousand two hundred ~~seventy five~~ nineteen dollars.

(F) Permit D-5f may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following:

(1) It contains not less than twenty-five hundred square feet of floor area.

(2) It is located on or in, or immediately adjacent to, the shoreline of, a navigable river.

(3) It provides docking space for twenty-five boats.

(4) It provides entertainment and recreation, provided that not less than fifty per cent of the business on the permit premises shall be preparing and serving meals for a consideration.

In addition, each application for a D-5f permit shall be accompanied by a certification from the local legislative

authority that the issuance of the D-5f permit is not inconsistent 31182
with that political subdivision's comprehensive development plan 31183
or other economic development goal as officially established by 31184
the local legislative authority. 31185

The holder of a D-5f permit may sell beer and intoxicating 31186
liquor at retail, only by the individual drink in glass and from 31187
the container, for consumption on the premises where sold. 31188

A D-5f permit shall not be transferred to another location. 31189

The division of liquor control shall not issue a D-5f permit 31190
if the permit premises or proposed permit premises are located 31191
within an area in which the sale of spirituous liquor by the glass 31192
is prohibited. 31193

A fee for this permit is ~~one two thousand eight three~~ hundred 31194
~~seventy-five~~ forty-four dollars. 31195

As used in this division, "navigable river" means a river 31196
that is also a "navigable water" as defined in the "Federal Power 31197
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 31198

(G) Permit D-5g may be issued to a nonprofit corporation that 31199
is either the owner or the operator of a national professional 31200
sports museum. The holder of a D-5g permit may sell beer and any 31201
intoxicating liquor at retail, only by the individual drink in 31202
glass and from the container, for consumption on the premises 31203
where sold. The holder of a D-5g permit shall sell no beer or 31204
intoxicating liquor for consumption on the premises where sold 31205
after one a.m. A D-5g permit shall not be transferred to another 31206
location. No quota restrictions shall be placed on the number of 31207
D-5g permits that may be issued. The fee for this permit is one 31208
thousand ~~five~~ eight hundred ~~seventy-five~~ dollars. 31209

(H) Permit D-5h may be issued to any nonprofit organization 31210
that is exempt from federal income taxation under the "Internal 31211
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 31212

amended, that owns or operates a fine arts museum and has no less 31213
than five thousand bona fide members possessing full membership 31214
privileges. The holder of a D-5h permit may sell beer and any 31215
intoxicating liquor at retail, only by the individual drink in 31216
glass and from the container, for consumption on the premises 31217
where sold. The holder of a D-5h permit shall sell no beer or 31218
intoxicating liquor for consumption on the premises where sold 31219
after one a.m. A D-5h permit shall not be transferred to another 31220
location. No quota restrictions shall be placed on the number of 31221
D-5h permits that may be issued. The fee for this permit is one 31222
thousand ~~five~~ eight hundred seventy-five dollars. 31223

(I) Permit D-5i may be issued to the owner or operator of a 31224
retail food establishment or a food service operation licensed 31225
under Chapter 3717. of the Revised Code that operates as a 31226
restaurant for purposes of this chapter and that meets all of the 31227
following requirements: 31228

(1) It is located in a municipal corporation or a township 31229
with a population of fifty thousand or less. 31230

(2) It has inside seating capacity for at least one hundred 31231
forty persons. 31232

(3) It has at least four thousand square feet of floor area. 31233

(4) It offers full-course meals, appetizers, and sandwiches. 31234

(5) Its receipts from beer and liquor sales do not exceed 31235
twenty-five per cent of its total gross receipts. 31236

(6) The value of its real and personal property exceeds seven 31237
hundred twenty-five thousand dollars. 31238

The holder of a D-5i permit shall cause an independent audit 31239
to be performed at the end of one full year of operation following 31240
issuance of the permit in order to verify the requirements of 31241
division (I)(5) of this section. The results of the independent 31242

audit shall be transmitted to the division. Upon determining that 31243
the receipts of the holder from beer and liquor sales exceeded 31244
twenty-five per cent of its total gross receipts, the division 31245
shall suspend the permit of the permit holder under section 31246
4301.25 of the Revised Code and may allow the permit holder to 31247
elect a forfeiture under section 4301.252 of the Revised Code. 31248

The holder of a D-5i permit may sell beer and any 31249
intoxicating liquor at retail, only by the individual drink in 31250
glass and from the container, for consumption on the premises 31251
where sold, and may sell the same products in the same manner and 31252
amounts not for consumption on the premises where sold as may be 31253
sold by the holders of D-1 and D-2 permits. The holder of a D-5i 31254
permit shall sell no beer or intoxicating liquor for consumption 31255
on the premises where sold after two-thirty a.m. In addition to 31256
the privileges authorized in this division, the holder of a D-5i 31257
permit may exercise the same privileges as the holder of a D-5 31258
permit. 31259

A D-5i permit shall not be transferred to another location. 31260
The division of liquor control shall not renew a D-5i permit 31261
unless the food service operation for which it is issued continues 31262
to meet the requirements described in divisions (I)(1) to (6) of 31263
this section. No quota restrictions shall be placed on the number 31264
of D-5i permits that may be issued. The fee for this permit is ~~one~~ 31265
two thousand eight ~~three~~ hundred ~~seventy-five~~ forty-four dollars. 31266

(J)(1) Permit D-5j may be issued to the owner or the operator 31267
of a retail food establishment or a food service operation 31268
licensed under Chapter 3717. of the Revised Code to sell beer and 31269
intoxicating liquor at retail, only by the individual drink in 31270
glass and from the container, for consumption on the premises 31271
where sold and to sell beer and intoxicating liquor in the same 31272
manner and amounts not for consumption on the premises where sold 31273
as may be sold by the holders of D-1 and D-2 permits. The holder 31274

of a D-5j permit may exercise the same privileges, and shall 31275
observe the same hours of operation, as the holder of a D-5 31276
permit. 31277

(2) The D-5j permit shall be issued only within a community 31278
entertainment district that is designated under section 4301.80 of 31279
the Revised Code and that is located in a municipal corporation 31280
with a population of at least one hundred thousand. 31281

(3) The location of a D-5j permit may be transferred only 31282
within the geographic boundaries of the community entertainment 31283
district in which it was issued and shall not be transferred 31284
outside the geographic boundaries of that district. 31285

(4) Not more than one D-5j permit shall be issued within each 31286
community entertainment district for each five acres of land 31287
located within the district. Not more than fifteen D-5j permits 31288
may be issued within a single community entertainment district. 31289
Except as otherwise provided in division (J)(4) of this section, 31290
no quota restrictions shall be placed upon the number of D-5j 31291
permits that may be issued. 31292

(5) The fee for a D-5j permit is ~~one~~ two thousand ~~eight~~ three 31293
hundred ~~seventy-five~~ forty-four dollars. 31294

(K)(1) Permit D-5k may be issued to any nonprofit 31295
organization that is exempt from federal income taxation under the 31296
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 31297
501(c)(3), as amended, that is the owner or operator of a 31298
botanical garden recognized by the American association of 31299
botanical gardens and arboreta, and that has not less than 31300
twenty-five hundred bona fide members. 31301

(2) The holder of a D-5k permit may sell beer and any 31302
intoxicating liquor at retail, only by the individual drink in 31303
glass and from the container, on the premises where sold. 31304

(3) The holder of a D-5k permit shall sell no beer or 31305

intoxicating liquor for consumption on the premises where sold 31306
after one a.m. 31307

(4) A D-5k permit shall not be transferred to another 31308
location. 31309

(5) No quota restrictions shall be placed on the number of 31310
D-5k permits that may be issued. 31311

(6) The fee for the D-5k permit is one thousand ~~five~~ eight 31312
hundred seventy-five dollars. 31313

Sec. 4303.182. (A) Except as otherwise provided in divisions 31314
(B) to (G) of this section, permit D-6 shall be issued to the 31315
holder of an A-1-A, A-2, C-2, D-2, D-3, D-4, D-4a, D-5, D-5a, 31316
D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 31317
permit to allow sale under that permit between the hours of ten 31318
a.m. and midnight, or between the hours of one p.m. and midnight, 31319
on Sunday, as applicable, if that sale has been authorized under 31320
section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised 31321
Code and under the restrictions of that authorization. 31322

(B) Permit D-6 shall be issued to the holder of any permit, 31323
including a D-4a and D-5d permit, authorizing the sale of 31324
intoxicating liquor issued for a premises located at any publicly 31325
owned airport, as defined in section 4563.01 of the Revised Code, 31326
at which commercial airline companies operate regularly scheduled 31327
flights on which space is available to the public, to allow sale 31328
under such permit between the hours of ten a.m. and midnight on 31329
Sunday, whether or not that sale has been authorized under section 31330
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 31331

(C) Permit D-6 shall be issued to the holder of a D-5a 31332
permit, and to the holder of a D-3 or D-3a permit who is the owner 31333
or operator of a hotel or motel that is required to be licensed 31334
under section 3731.03 of the Revised Code, that contains at least 31335

fifty rooms for registered transient guests, and that has on its premises a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and is affiliated with the hotel or motel and within or contiguous to the hotel or motel and serving food within the hotel or motel, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(D) The holder of a D-6 permit that is issued to a sports facility may make sales under the permit between the hours of eleven a.m. and midnight on any Sunday on which a professional baseball, basketball, football, hockey, or soccer game is being played at the sports facility. As used in this division, "sports facility" means a stadium or arena that has a seating capacity of at least four thousand and that is owned or leased by a professional baseball, basketball, football, hockey, or soccer franchise or any combination of those franchises.

(E) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a premises located in or at the Ohio historical society area or the state fairgrounds, as defined in division (B) of section 4301.40 of the Revised Code, to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(F) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of intoxicating liquor and that is issued to an outdoor performing arts center to allow sale under that permit between the hours of one p.m. and midnight on Sunday, whether or not that sale has been authorized under section

4301.361 of the Revised Code. A D-6 permit issued under this 31368
division is subject to the results of an election, held after the 31369
D-6 permit is issued, on question (B)(4) as set forth in section 31370
4301.351 of the Revised Code. Following the end of the period 31371
during which an election may be held on question (B)(4) as set 31372
forth in that section, sales of intoxicating liquor may continue 31373
at an outdoor performing arts center under a D-6 permit issued 31374
under this division, unless an election on that question is held 31375
during the permitted period and a majority of the voters voting in 31376
the precinct on that question vote "no." 31377

As used in this division, "outdoor performing arts center" 31378
means an outdoor performing arts center that is located on not 31379
less than eight hundred acres of land and that is open for 31380
performances from the first day of April to the last day of 31381
October of each year. 31382

(G) Permit D-6 shall be issued to the holder of any permit 31383
that authorizes the sale of beer or intoxicating liquor and that 31384
is issued to a golf course owned by the state, a conservancy 31385
district, a park district created under Chapter 1545. of the 31386
Revised Code, or another political subdivision to allow sale under 31387
that permit between the hours of ten a.m. and midnight on Sunday, 31388
whether or not that sale has been authorized under section 31389
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 31390

(H) If the restriction to licensed premises where the sale of 31391
food and other goods and services exceeds fifty per cent of the 31392
total gross receipts of the permit holder at the premises is 31393
applicable, the division of liquor control may accept an affidavit 31394
from the permit holder to show the proportion of the permit 31395
holder's gross receipts derived from the sale of food and other 31396
goods and services. If the liquor control commission determines 31397
that affidavit to have been false, it shall revoke the permits of 31398
the permit holder at the premises concerned. 31399

(I) The fee for the D-6 permit is ~~two~~ five hundred ~~fifty~~ 31400
dollars when it is issued to the holder of an A-1-A, A-2, D-2, 31401
D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, 31402
D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 31403
permit is ~~two~~ four hundred dollars when it is issued to the holder 31404
of a C-2 permit. 31405

Sec. 4303.183. Permit D-7 may be issued to the holder of any 31406
D-2 permit issued by the division of liquor control, or if there 31407
is an insufficient number of D-2 permit holders to fill the resort 31408
quota, to the operator of a retail food establishment or a food 31409
service operation required to be licensed under Chapter 3717. of 31410
the Revised Code that operates as a restaurant for purposes of 31411
this chapter and which qualifies under the other requirements of 31412
this section, to sell beer and any intoxicating liquor at retail, 31413
only by the individual drink in glass and from the container, for 31414
consumption on the premises where sold. Not less than fifty per 31415
cent of the business on the permit premises shall be preparing and 31416
serving meals for a consideration in order to qualify for and 31417
continue to hold such D-7 permit. The permit premises shall be 31418
located in a resort area. 31419

"Resort area" means a municipal corporation, township, 31420
county, or any combination thereof, which provides entertainment, 31421
recreation, and transient housing facilities specifically intended 31422
to provide leisure time activities for persons other than those 31423
whose permanent residence is within the "resort area" and who 31424
increase the population of the "resort area" on a seasonal basis, 31425
and which experiences seasonal peaks of employment and 31426
governmental services as a direct result of population increase 31427
generated by the transient, recreating public. A resort season 31428
shall begin on the first day of May and end on the last day of 31429
October. Notwithstanding section 4303.27 of the Revised Code, such 31430

permits may be issued for resort seasons without regard to the 31431
calendar year or permit year. Quota restrictions on the number of 31432
such permits shall take into consideration the transient 31433
population during the resort season, the custom and habits of 31434
visitors and tourists, and the promotion of the resort and tourist 31435
industry. The fee for this permit is ~~three~~ four hundred 31436
~~seventy-five~~ sixty-nine dollars per month. 31437

Any suspension of a D-7 permit shall be satisfied during the 31438
resort season in which such suspension becomes final. If such 31439
suspension becomes final during the off-season, or if the period 31440
of the suspension extends beyond the last day of October, the 31441
suspension or remainder thereof shall be satisfied during the next 31442
resort season. 31443

The ownership of a D-7 permit may be transferred from one 31444
permit holder to another. The holder of a D-7 permit may file an 31445
application to transfer such permit to a new location within the 31446
same resort area, provided that such permit holder shall be the 31447
owner or operator of a retail food establishment or a food service 31448
operation, required to be licensed under Chapter 3717. of the 31449
Revised Code, that operates as a restaurant for purposes of this 31450
chapter, at such new location. 31451

Sec. 4303.184. (A) Subject to division (B) of this section, a 31452
D-8 permit may be issued to the holder of a C-1, C-2, or C-2x 31453
permit issued to a retail store that has either of the following 31454
characteristics: 31455

(1) The store has at least five thousand five hundred square 31456
feet of floor area, and it generates more than sixty per cent of 31457
its sales in general merchandise items and food for consumption 31458
off the premises where sold. 31459

(2) Wine constitutes at least sixty per cent of the value of 31460
the store's inventory. 31461

(B) A D-8 permit may be issued to the holder of a C-1, C-2, 31462
or C-2x permit only if the premises of the permit holder are 31463
located in a precinct, or at a particular location in a precinct, 31464
in which the sale of beer, wine, or mixed beverages is permitted 31465
for consumption off the premises where sold. Sales under a D-8 31466
permit are not affected by whether sales for consumption on the 31467
premises where sold are permitted in the precinct or at the 31468
particular location where the D-8 premises are located. 31469

(C) The holder of a D-8 permit may sell tasting samples of 31470
beer, wine, and mixed beverages, but not spirituous liquor, at 31471
retail, for consumption on the premises where sold in an amount 31472
not to exceed two ounces or another amount designated by rule of 31473
the liquor control commission. A tasting sample shall not be sold 31474
for general consumption. No D-8 permit holder shall allow any 31475
authorized purchaser to consume more than four tasting samples of 31476
beer, wine, or mixed beverages, or any combination of beer, wine, 31477
or mixed beverages, per day. 31478

(D) The privileges authorized under a D-8 permit may only be 31479
exercised in conjunction with and during the hours of operation 31480
authorized by a C-1, C-2, C-2x, or D-6 permit. 31481

(E) A D-8 permit shall not be transferred to another 31482
location. 31483

(F) The fee for the D-8 permit is ~~two~~ five hundred ~~fifty~~ 31484
dollars. 31485

(G) The holder of a D-8 permit shall cause an independent 31486
audit to be performed at the end of the first full year of 31487
operation following issuance of the permit, and at the end of each 31488
second year thereafter, in order to verify that the permit holder 31489
satisfies the applicable requirement of division (A)(1) or (2) of 31490
this section. The permit holder shall transmit the results of the 31491
independent audit to the division of liquor control. If the 31492

results of the audit indicate noncompliance with division (A) of 31493
this section, the division shall not renew the D-8 permit of the 31494
permit holder. 31495

Sec. 4303.19. Permit E may be issued to the owner or operator 31496
of any railroad, a sleeping car company operating dining cars, 31497
buffet cars, club cars, lounge cars, or similar equipment, or an 31498
airline providing charter or regularly scheduled aircraft 31499
transportation service with dining, buffet, club, lounge, or 31500
similar facilities, to sell beer or any intoxicating liquor in any 31501
such car or aircraft to bona fide passengers at retail in glass 31502
and from the container for consumption in such car or aircraft, 31503
including sale on Sunday between the hours of one p.m. and 31504
midnight. The fee for this permit is ~~two~~ five hundred ~~fifty~~ 31505
dollars. 31506

Sec. 4303.20. Permit F may be issued to an association of ten 31507
or more persons, a labor union, or a charitable organization, or 31508
to an employer of ten or more persons sponsoring a function for 31509
~~his~~ the employer's employees, to purchase from the holders of A-1 31510
and B-1 permits and to sell beer for a period lasting not to 31511
exceed five days. No more than two such permits may be issued to 31512
the same applicant in any thirty-day period. 31513

The special function for which ~~such~~ the permit is issued 31514
shall include a social, recreational, benevolent, charitable, 31515
fraternal, political, patriotic, or athletic purpose but shall not 31516
include any function the proceeds of which are for the profit or 31517
gain of any individual. The fee for this permit is ~~twenty~~ forty 31518
dollars. 31519

Sec. 4303.201. (A) As used in this section: 31520

(1) "Convention facility" means any structure owned or leased 31521
by a municipal corporation or county which was expressly designed 31522

and constructed and is currently used for the purpose of 31523
presenting conventions, public meetings, and exhibitions. 31524

(2) "Nonprofit organization" means any unincorporated 31525
association or nonprofit corporation that is not formed for the 31526
pecuniary gain or profit of, and whose net earnings or any part 31527
thereof is not distributable to, its members, trustees, officers, 31528
or other private persons; provided, that the payment of reasonable 31529
compensation for services rendered and the distribution of assets 31530
on dissolution shall not be considered pecuniary gain or profit or 31531
distribution of earnings in an association or corporation all of 31532
whose members are nonprofit corporations. Distribution of earnings 31533
to member organizations does not deprive it of the status of a 31534
nonprofit organization. 31535

(B) An F-1 permit may be issued to any nonprofit organization 31536
to allow the nonprofit organization and its members and their 31537
guests to lawfully bring beer, wine, and intoxicating liquor in 31538
its original package, flasks, or other containers into a 31539
convention facility for consumption therein, if both of the 31540
following requirements are met: 31541

(1) The superintendent of liquor control is satisfied the 31542
organization meets the definition of a nonprofit organization as 31543
set forth in division (A)(2) of this section, the nonprofit 31544
organization's membership includes persons residing in two or more 31545
states, and the organization's total membership is in excess of 31546
five hundred. The superintendent may accept a sworn statement by 31547
the president or other chief executive officer of the nonprofit 31548
organization as proof of the matters required in this division. 31549

(2) The managing official or employee of the convention 31550
facility has given written consent to the use of the convention 31551
facility and to the application for the F-1 permit, as shown in 31552
the nonprofit organization's application to the superintendent. 31553

(C) The superintendent shall specify individually the 31554
effective period of each F-1 permit on the permit, which shall not 31555
exceed three days. The fee for an F-1 permit is ~~one~~ two hundred 31556
~~twenty-five~~ fifty dollars. The superintendent shall prepare and 31557
make available application forms to request F-1 permits and may 31558
require applicants to furnish such information as the 31559
superintendent determines to be necessary for the administration 31560
of this section. 31561

(D) No holder of an F-1 permit shall make a specific charge 31562
for beer, wine, or intoxicating liquor by the drink, or in its 31563
original package, flasks, or other containers in connection with 31564
its use of the convention facility under the permit. 31565

Sec. 4303.202. (A) The division of liquor control may issue 31566
an F-2 permit to an association or corporation, or to a recognized 31567
subordinate lodge, chapter, or other local unit of an association 31568
or corporation, to sell beer or intoxicating liquor by the 31569
individual drink at an event to be held on premises located in a 31570
political subdivision or part thereof where the sale of beer or 31571
intoxicating liquor on that day is otherwise permitted by law. 31572

The division of liquor control may issue an F-2 permit to an 31573
association or corporation, or to a recognized subordinate lodge, 31574
chapter, or other local unit of an association or corporation, to 31575
sell beer, wine, and spirituous liquor by the individual drink at 31576
an event to be held on premises located in a political subdivision 31577
or part thereof where the sale of beer and wine, but not 31578
spirituous liquor, is otherwise permitted by law on that day. 31579

Notwithstanding section 1711.09 of the Revised Code, this 31580
section applies to any association or corporation or a recognized 31581
subordinate lodge, chapter, or other local unit of an association 31582
or corporation. 31583

In order to receive an F-2 permit, the association, 31584
corporation, or local unit shall be organized not for profit, 31585
shall be operated for a charitable, cultural, fraternal, or 31586
educational purpose, and shall not be affiliated with the holder 31587
of any class of liquor permit, other than a D-4 permit. 31588

The premises on which the permit is to be used shall be 31589
clearly defined and sufficiently restricted to allow proper 31590
supervision of the permit use by state and local law enforcement 31591
personnel. An F-2 permit may be issued for the same premises for 31592
which another class of permit is issued. 31593

No F-2 permit shall be effective for more than forty-eight 31594
consecutive hours, and sales shall be confined to the same hours 31595
permitted to the holder of a D-3 permit. The division shall not 31596
issue more than two F-2 permits in one calendar year to the same 31597
association, corporation, or local unit of an association or 31598
corporation. The fee for an F-2 permit is ~~seventy-five~~ one hundred
fifty dollars. 31599
31600

If an applicant wishes the holder of a D-3, D-4, or D-5 31601
permit to conduct the sale of beer and intoxicating liquor at the 31602
event, the applicant may request that the F-2 permit be issued 31603
jointly to the association, corporation, or local unit and the 31604
D-permit holder. If a permit is issued jointly, the association, 31605
corporation, or local unit and the D-permit holder shall both be 31606
held responsible for any conduct that violates laws pertaining to 31607
the sale of alcoholic beverages, including sales by the D-permit 31608
holder; otherwise, the association, corporation, or local unit 31609
shall be held responsible. In addition to the permit fee paid by 31610
the association, corporation, or local unit, the D-permit holder 31611
shall pay a fee of ten dollars. A D-permit holder may receive an 31612
unlimited number of joint F-2 permits. 31613

Any association, corporation, or local unit applying for an 31614

F-2 permit shall file with the application a statement of the 31615
organizational purpose of the association, corporation, or local 31616
unit, the location and purpose of the event, and a list of its 31617
officers. The application form shall contain a notice that a 31618
person who knowingly makes a false statement on the application or 31619
statement is guilty of the crime of falsification, a misdemeanor 31620
of the first degree. In ruling on an application, the division 31621
shall consider, among other things, the past activities of the 31622
association, corporation, or local unit and any D-permit holder 31623
while operating under other F-2 permits, the location of the event 31624
for which the current application is made, and any objections of 31625
local residents or law enforcement authorities. If the division 31626
approves the application, it shall send copies of the approved 31627
application to the proper law enforcement authorities prior to the 31628
scheduled event. 31629

Using the procedures of Chapter 119. of the Revised Code, the 31630
liquor control commission may adopt such rules as are necessary to 31631
administer this section. 31632

(B) No association, corporation, local unit of an association 31633
or corporation, or D-permit holder who holds an F-2 permit shall 31634
sell beer or intoxicating liquor beyond the hours of sale allowed 31635
by the permit. This division imposes strict liability on the 31636
holder of such permit and on any officer, agent, or employee of 31637
such permit holder. 31638

Sec. 4303.203. (A) As used in this section: 31639

(1) "Convention facility" and "nonprofit corporation" have 31640
the same meanings as in section 4303.201 of the Revised Code. 31641

(2) "Hotel" means a hotel described in section 3731.01 of the 31642
Revised Code that has at least fifty rooms for registered 31643
transient guests and that is required to be licensed pursuant to 31644
section 3731.03 of the Revised Code. 31645

(B) An F-3 permit may be issued to an organization whose primary purpose is to support, promote, and educate members of the beer, wine, or mixed beverage industries, to allow the organization to bring beer, wine, or mixed beverages in their original packages or containers into a convention facility or hotel for consumption in the facility or hotel, if all of the following requirements are met:

(1) The superintendent of liquor control is satisfied that the organization is a nonprofit organization and that the organization's membership is in excess of two hundred fifty persons.

(2) The general manager or the equivalent officer of the convention facility or hotel provides a written consent for the use of a portion of the facility or hotel by the organization and a written statement that the facility's or hotel's permit privileges will be suspended in the portion of the facility or hotel in which the F-3 permit is in force.

(3) The organization provides a written description that clearly sets forth the portion of the convention facility or hotel in which the F-3 permit will be used.

(4) The organization provides a written statement as to its primary purpose and the purpose of its event at the convention facility or hotel.

(5) Division (C) of this section does not apply.

(C) No F-3 permit shall be issued to any nonprofit organization that is created by or for a specific manufacturer, supplier, distributor, or retailer of beer, wine, or mixed beverages.

(D) Notwithstanding division (E) of section 4301.22 of the Revised Code, a holder of an F-3 permit may obtain by donation

beer, wine, or mixed beverages from any manufacturer or producer 31676
of beer, wine, or mixed beverages. 31677

(E) Nothing in this chapter prohibits the holder of an F-3 31678
permit from bringing into the portion of the convention facility 31679
or hotel covered by the permit beer, wine, or mixed beverages 31680
otherwise not approved for sale in this state. 31681

(F) Notwithstanding division (E) of section 4301.22 of the 31682
Revised Code, no holder of an F-3 permit shall make any charge for 31683
any beer, wine, or mixed beverage served by the drink, or in its 31684
original package or container, in connection with the use of the 31685
portion of the convention facility or hotel covered by the permit. 31686

(G) The division of liquor control shall prepare and make 31687
available an F-3 permit application form and may require 31688
applicants for the permit to provide information, in addition to 31689
that required by this section, that is necessary for the 31690
administration of this section. 31691

(H) An F-3 permit shall be effective for a period not to 31692
exceed five consecutive days. The division of liquor control shall 31693
not issue more than three F-3 permits per calendar year to the 31694
same nonprofit organization. The fee for an F-3 permit is ~~one~~ 31695
three hundred ~~fifty~~ dollars. 31696

Sec. 4303.204. (A) The division of liquor control may issue 31697
an F-4 permit to an association or corporation organized 31698
not-for-profit in this state to conduct an event that includes the 31699
introduction, showcasing, or promotion of Ohio wines, if the event 31700
has all of the following characteristics: 31701

(1) It is coordinated by that association or corporation, and 31702
the association or corporation is responsible for the activities 31703
at it. 31704

(2) It has as one of its purposes the intent to introduce, 31705

showcase, or promote Ohio wines to persons who attend it. 31706

(3) It includes the sale of food for consumption on the 31707
premises where sold. 31708

(4) It features at least three A-2 permit holders who sell 31709
Ohio wine at it. 31710

(B) The holder of an F-4 permit may furnish, without charge, 31711
wine that it has obtained from the A-2 permit holders that are 31712
participating in the event for which the F-4 permit is issued, in 31713
two-ounce samples for consumption on the premises where furnished 31714
and may sell such wine by the glass for consumption on the 31715
premises where sold. The holder of an A-2 permit that is 31716
participating in the event for which the F-4 permit is issued may 31717
sell wine that it has manufactured, in sealed containers for 31718
consumption off the premises where sold. Wine may be furnished or 31719
sold on the premises of the event for which the F-4 permit is 31720
issued only where and when the sale of wine is otherwise permitted 31721
by law. 31722

(C) The premises of the event for which the F-4 permit is 31723
issued shall be clearly defined and sufficiently restricted to 31724
allow proper enforcement of the permit by state and local law 31725
enforcement officers. If an F-4 permit is issued for all or a 31726
portion of the same premises for which another class of permit is 31727
issued, that permit holder's privileges will be suspended in that 31728
portion of the premises in which the F-4 permit is in effect. 31729

(D) No F-4 permit shall be effective for more than 31730
seventy-two consecutive hours. No sales or furnishing of wine 31731
shall take place under an F-4 permit after one a.m. 31732

(E) The division shall not issue more than six F-4 permits to 31733
the same not-for-profit association or corporation in any one 31734
calendar year. 31735

(F) An applicant for an F-4 permit shall apply for the permit 31736

not later than thirty days prior to the first day of the event for 31737
which the permit is sought. The application for the permit shall 31738
list all of the A-2 permit holders that will participate in the 31739
event for which the F-4 permit is sought. The fee for the F-4 31740
permit is ~~thirty~~ sixty dollars per day. 31741

The division shall prepare and make available an F-4 permit 31742
application form and may require applicants for and holders of the 31743
F-4 permit to provide information that is in addition to that 31744
required by this section and that is necessary for the 31745
administration of this section. 31746

(G)(1) The holder of an F-4 permit is responsible for, and is 31747
subject to penalties for, any violations of this chapter or 31748
Chapter 4301. of the Revised Code or the rules adopted under this 31749
and that chapter. 31750

(2) An F-4 permit holder shall not allow an A-2 permit holder 31751
to participate in the event for which the F-4 permit is issued if 31752
the A-2 or A-1-A permit of that A-2 permit holder is under 31753
suspension. 31754

(3) The division may refuse to issue an F-4 permit to an 31755
applicant who has violated any provision of this chapter or 31756
Chapter 4301. of the Revised Code during the applicant's previous 31757
operation under an F-4 permit, for a period of up to two years 31758
after the date of the violation. 31759

(H)(1) Notwithstanding division (E) of section 4301.22 of the 31760
Revised Code, an A-2 permit holder that participates in an event 31761
for which an F-4 permit is issued may donate wine that it has 31762
manufactured to the holder of that F-4 permit. The holder of an 31763
F-4 permit may return unused and sealed containers of wine to the 31764
A-2 permit holder that donated the wine at the conclusion of the 31765
event for which the F-4 permit was issued. 31766

(2) The participation by an A-2 permit holder or its 31767

employees in an event for which an F-4 permit is issued does not 31768
violate section 4301.24 of the Revised Code. 31769

Sec. 4303.21. Permit G may be issued to the owner of a 31770
pharmacy in charge of a licensed pharmacist to be named in ~~such~~ 31771
the permit for the sale at retail of alcohol for medicinal 31772
purposes in quantities at each sale of not more than one gallon 31773
upon the written prescription of a physician or dentist who is 31774
lawfully and regularly engaged in the practice of the physician's 31775
or dentist's profession in this state, and for the sale of 31776
industrial alcohol for mechanical, chemical, or scientific 31777
purposes to a person known by the seller to be engaged in ~~such~~ 31778
mechanical, chemical, or scientific pursuits; all subject to 31779
section 4303.34 of the Revised Code. The fee for this permit ~~if~~ 31780
~~fifty~~ is one hundred dollars. 31781

Sec. 4303.22. Permit H may be issued for a fee of ~~one~~ three 31782
hundred ~~fifty~~ dollars to a carrier by motor vehicle who also holds 31783
a license issued by the public utilities commission to transport 31784
beer, intoxicating liquor, and alcohol, or any of them, in this 31785
state for delivery or use in this state. This section does not 31786
prevent the division of liquor control from contracting with 31787
common or contract carriers for the delivery or transportation of 31788
liquor for the division, and any contract or common carrier so 31789
contracting with the division is eligible for an H permit. 31790
Manufacturers or wholesale distributors of beer or intoxicating 31791
liquor other than spirituous liquor who transport or deliver their 31792
own products to or from their premises licensed under this chapter 31793
and Chapter 4301. of the Revised Code by their own trucks as an 31794
incident to the purchase or sale of such beverages need not obtain 31795
an H permit. Carriers by rail shall receive an H permit upon 31796
application for it. 31797

This section does not prevent the division from issuing, upon 31798

the payment of the permit fee, an H permit to any person, 31799
partnership, firm, or corporation licensed by any other state to 31800
engage in the business of manufacturing and brewing or producing 31801
beer, wine, and mixed beverages or any person, partnership, firm, 31802
or corporation licensed by the United States or any other state to 31803
engage in the business of importing beer, wine, and mixed 31804
beverages manufactured outside the United States. The 31805
manufacturer, brewer, or importer of products manufactured outside 31806
the United States, upon the issuance of an H permit, may 31807
transport, ship, and deliver only its own products to holders of 31808
B-1 or B-5 permits in Ohio in motor trucks and equipment owned and 31809
operated by such class H permit holder. No H permit shall be 31810
issued by the division to such applicant until the applicant files 31811
with the division a liability insurance certificate or policy 31812
satisfactory to the division, in a sum of not less than one 31813
thousand nor more than five thousand dollars for property damage 31814
and for not less than five thousand nor more than fifty thousand 31815
dollars for loss sustained by reason of injury or death and with 31816
such other terms as the division considers necessary to adequately 31817
protect the interest of the public, having due regard for the 31818
number of persons and amount of property affected. The certificate 31819
or policy shall insure the manufacturer, brewer, or importer of 31820
products manufactured outside the United States against loss 31821
sustained by reason of the death of or injury to persons, and for 31822
loss of or damage to property, from the negligence of such class H 31823
permit holder in the operation of its motor vehicles or equipment 31824
in this state. 31825

Sec. 4303.23. Permit I may be issued to wholesale druggists 31826
to purchase alcohol from the holders of A-3 permits and to import 31827
alcohol into ~~Ohio~~ this state subject to ~~such~~ terms ~~as are~~ imposed 31828
by the division of liquor control; to sell at wholesale to 31829
physicians, dentists, druggists, veterinary surgeons, 31830

manufacturers, hospitals, infirmaries, and medical or educational 31831
institutions using such alcohol for medicinal, mechanical, 31832
chemical, or scientific purposes, and to holders of G permits for 31833
nonbeverage purposes only; and to sell alcohol at retail in total 31834
quantities at each sale of not more than one quart, upon the 31835
written prescription of a physician or dentist who is lawfully and 31836
regularly engaged in the practice of ~~his~~ the physician's or 31837
dentist's profession in this state. The sale of alcohol under this 31838
section is subject to section 4303.34 of the Revised Code. The fee 31839
for this permit is ~~one~~ two hundred dollars. 31840

"Wholesale druggists," as used in this section includes all 31841
persons holding federal wholesale liquor dealers' licenses and who 31842
are engaged in the sale of medicinal drugs, proprietary medicines, 31843
and surgical and medical appliances and apparatus, at wholesale. 31844

Sec. 4303.231. Permit W may be issued to a manufacturer or 31845
supplier of beer or intoxicating liquor to operate a warehouse for 31846
the storage of beer or intoxicating liquor within this state and 31847
to sell ~~such~~ those products from the warehouse only to holders of 31848
B permits in this state and to other customers outside this state 31849
under rules promulgated by the liquor control commission. Each 31850
holder of a B permit with a consent to import on file with the 31851
division of liquor control may purchase beer or intoxicating 31852
liquor if designated by the permit to make ~~such~~ those purchases, 31853
from the holder of a W permit. The fee for a W permit is one 31854
thousand ~~two~~ five hundred ~~fifty~~ sixty-three dollars for each 31855
warehouse during the year covered by the permit. 31856

Sec. 4305.01. For the purpose of reimbursing the state for 31857
the expenses of administering Chapters 4301. and 4303. of the 31858
Revised Code and to provide revenues for the support of the state, 31859
a tax is hereby levied on the sale or distribution in this state 31860
of beer, whether in barrels or other containers, excepting in 31861

sealed bottles or cans, at the rate of ~~five~~ eleven dollars and 31862
~~fifty-eight~~ sixteen cents per barrel of thirty-one gallons. 31863

The tax commissioner shall exercise, with respect to the 31864
administration of the tax imposed by this section, all the powers 31865
and duties vested in or imposed by sections 4307.04 to 4307.07 of 31866
the Revised Code, so far as consistent with this section. 31867
Manufacturers and consignees of beer in barrels or other 31868
containers, excepting in sealed bottles or cans, and railroad 31869
companies, express companies, and other public carriers 31870
transporting shipments of such beer are subject, with respect to 31871
such tax, to the same duties and entitled to the same privileges 31872
as are required or permitted by those sections. 31873

The revenue derived from the tax on the sale and distribution 31874
of beer pursuant to this section and section 4301.42 of the 31875
Revised Code shall be for the use of the general revenue fund. 31876

The tax refund fund created by section 5703.052 of the 31877
Revised Code may be drawn upon by the tax commissioner for any 31878
refunds authorized to be made by the commissioner in sections 31879
4303.33, 4307.05, and 4307.07 of the Revised Code for beer. 31880

Sec. 4503.06. (A) The owner of each manufactured or mobile 31881
home that has acquired situs in this state shall pay either a real 31882
property tax pursuant to Title LVII of the Revised Code or a 31883
manufactured home tax pursuant to division (C) of this section. 31884

(B) The owner of a manufactured or mobile home shall pay real 31885
property taxes if either of the following applies: 31886

(1) The manufactured or mobile home acquired situs in the 31887
state or ownership in the home was transferred on or after January 31888
1, 2000, and all of the following apply: 31889

(a) The home is affixed to a permanent foundation as defined 31890
in division (C)(5) of section 3781.06 of the Revised Code; 31891

(b) The home is located on land that is owned by the owner of the home; 31892
31893

(c) The certificate of title has been inactivated by the clerk of the court of common pleas that issued it, pursuant to division (H) of section 4505.11 of the Revised Code. 31894
31895
31896

(2) The manufactured or mobile home acquired situs in the state or ownership in the home was transferred before January 1, 2000, and all of the following apply: 31897
31898
31899

(a) The home is affixed to a permanent foundation as defined in division (C)(5) of section 3781.06 of the Revised Code; 31900
31901

(b) The home is located on land that is owned by the owner of the home; 31902
31903

(c) The owner of the home has elected to have the home taxed as real property and, pursuant to section 4505.11 of the Revised Code, has surrendered the certificate of title to the auditor of the county containing the taxing district in which the home has its situs, together with proof that all taxes have been paid; 31904
31905
31906
31907
31908

(d) The county auditor has placed the home on the real property tax list and delivered the certificate of title to the clerk of the court of common pleas that issued it and the clerk has inactivated the certificate. 31909
31910
31911
31912

(C)(1) Any mobile or manufactured home that is not taxed as real property as provided in division (B) of this section is subject to an annual manufactured home tax, payable by the owner, for locating the home in this state. The tax as levied in this section is for the purpose of supplementing the general revenue funds of the local subdivisions in which the home has its situs pursuant to this section. 31913
31914
31915
31916
31917
31918
31919

(2) The year for which the manufactured home tax is levied commences on the first day of January and ends on the following 31920
31921

thirty-first day of December. The state shall have the first lien 31922
on any manufactured or mobile home on the list for the amount of 31923
taxes, penalties, and interest charged against the owner of the 31924
home under this section. The lien of the state for the tax for a 31925
year shall attach on the first day of January to a home that has 31926
acquired situs on that date. The lien for a home that has not 31927
acquired situs on the first day of January, but that acquires 31928
situs during the year, shall attach on the next first day of 31929
January. The lien shall continue until the tax, including any 31930
penalty or interest, is paid. 31931

(3)(a) The situs of a manufactured or mobile home located in 31932
this state on the first day of January is the local taxing 31933
district in which the home is located on that date. 31934

(b) The situs of a manufactured or mobile home not located in 31935
this state on the first day of January, but located in this state 31936
subsequent to that date, is the local taxing district in which the 31937
home is located thirty days after it is acquired or first enters 31938
this state. 31939

(4) The tax is collected by and paid to the county treasurer 31940
of the county containing the taxing district in which the home has 31941
its situs. 31942

(D) The manufactured home tax shall be computed and assessed 31943
by the county auditor of the county containing the taxing district 31944
in which the home has its situs as follows: 31945

(1) On a home that acquired situs in this state prior to 31946
January 1, 2000; 31947

(a) By multiplying the assessable value of the home by the 31948
tax rate of the taxing district in which the home has its situs, 31949
and deducting from the product thus obtained any reduction 31950
authorized under section 4503.065 of the Revised Code. The tax 31951
levied under this formula shall not be less than thirty-six 31952

dollars, unless the home qualifies for a reduction in assessable value under section 4503.065 of the Revised Code, in which case there shall be no minimum tax and the tax shall be the amount calculated under this division.

(b) The assessable value of the home shall be forty per cent of the amount arrived at by the following computation:

(i) If the cost to the owner, or market value at time of purchase, whichever is greater, of the home includes the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule:

For the first calendar year			31963
in which the			31964
home is owned by the			31965
current owner		80%	31966
2nd calendar year	x	75%	31967
3rd "	x	70%	31968
4th "	x	65%	31969
5th "	x	60%	31970
6th "	x	55%	31971
7th "	x	50%	31972
8th "	x	45%	31973
9th "	x	40%	31974
10th and each year thereafter		35%	31975

The first calendar year means any period between the first day of January and the thirty-first day of December of the first year.

(ii) If the cost to the owner, or market value at the time of purchase, whichever is greater, of the home does not include the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule:

For the first calendar year			31983
in which the			31984

home is owned by the			31985
current owner		95%	31986
2nd calendar year	x	90%	31987
3rd "	x	85%	31988
4th "	x	80%	31989
5th "	x	75%	31990
6th "	x	70%	31991
7th "	x	65%	31992
8th "	x	60%	31993
9th "	x	55%	31994
10th and each year thereafter		50%	31995

The first calendar year means any period between the first day of January and the thirty-first day of December of the first year. 31996
31997
31998

(2) On a home in which ownership was transferred or that first acquired situs in this state on or after January 1, 2000: 31999
32000

(a) By multiplying the assessable value of the home by the effective tax rate, as defined in section 323.08 of the Revised Code, for residential real property of the taxing district in which the home has its situs, and deducting from the product thus obtained the reductions required or authorized under section 319.302, division (B) of section 323.152, or section 4503.065 of the Revised Code. 32001
32002
32003
32004
32005
32006
32007

(b) The assessable value of the home shall be thirty-five per cent of its true value as determined under division (L) of this section. 32008
32009
32010

(3) On or before the fifteenth day of January each year, the auditor shall record the assessable value and the amount of tax on the manufactured or mobile home on the tax list and deliver a duplicate of the list to the county treasurer. In the case of an emergency as defined in section 323.17 of the Revised Code, the 32011
32012
32013
32014
32015

tax commissioner, by journal entry, may extend the times for 32016
delivery of the duplicate for an additional fifteen days upon 32017
receiving a written application from the county auditor regarding 32018
an extension for the delivery of the duplicate, or from the county 32019
treasurer regarding an extension of the time for the billing and 32020
collection of taxes. The application shall contain a statement 32021
describing the emergency that will cause the unavoidable delay and 32022
must be received by the tax commissioner on or before the last day 32023
of the month preceding the day delivery of the duplicate is 32024
otherwise required. When an extension is granted for delivery of 32025
the duplicate, the time period for payment of taxes shall be 32026
extended for a like period of time. When a delay in the closing of 32027
a tax collection period becomes unavoidable, the tax commissioner, 32028
upon application by the county auditor and county treasurer, may 32029
order the time for payment of taxes to be extended if the tax 32030
commissioner determines that penalties have accrued or would 32031
otherwise accrue for reasons beyond the control of the taxpayers 32032
of the county. The order shall prescribe the final extended date 32033
for payment of taxes for that collection period. 32034

(4) After January 1, 1999, the owner of a manufactured or 32035
mobile home taxed pursuant to division (D)(1) of this section may 32036
elect to have the home taxed pursuant to division (D)(2) of this 32037
section by filing a written request with the county auditor of the 32038
taxing district in which the home is located on or before the 32039
first day of December of any year. Upon the filing of the request, 32040
the county auditor shall determine whether all taxes levied under 32041
division (D)(1) of this section have been paid, and if those taxes 32042
have been paid, the county auditor shall tax the manufactured or 32043
mobile home pursuant to division (D)(2) of this section commencing 32044
in the next tax year. 32045

(5) A manufactured or mobile home that acquired situs in this 32046
state prior to January 1, 2000, shall be taxed pursuant to 32047

division (D)(2) of this section if no manufactured home tax had 32048
been paid for the home and the home was not exempted from taxation 32049
pursuant to division (E) of this section for the year for which 32050
the taxes were not paid. 32051

(6)(a) Immediately upon receipt of any manufactured home tax 32052
duplicate from the county auditor, but not less than twenty days 32053
prior to the last date on which the first one-half taxes may be 32054
paid without penalty as prescribed in division (F) of this 32055
section, the county treasurer shall cause to be prepared and 32056
mailed or delivered to each person charged on that duplicate with 32057
taxes, or to an agent designated by such person, the tax bill 32058
prescribed by the tax commissioner under division (D)(7) of this 32059
section. When taxes are paid by installments, the county treasurer 32060
shall mail or deliver to each person charged on such duplicate or 32061
the agent designated by such person a second tax bill showing the 32062
amount due at the time of the second tax collection. The second 32063
half tax bill shall be mailed or delivered at least twenty days 32064
prior to the close of the second half tax collection period. A 32065
change in the mailing address of any tax bill shall be made in 32066
writing to the county treasurer. Failure to receive a bill 32067
required by this section does not excuse failure or delay to pay 32068
any taxes shown on the bill or, except as provided in division 32069
~~(A)~~(B)(1) of section 5715.39 of the Revised Code, avoid any 32070
penalty, interest, or charge for such delay. 32071

(b) After delivery of the copy of the delinquent manufactured 32072
home tax list under division (H) of this section, the county 32073
treasurer may prepare and mail to each person in whose name a home 32074
is listed an additional tax bill showing the total amount of 32075
delinquent taxes charged against the home as shown on the list. 32076
The tax bill shall include a notice that the interest charge 32077
prescribed by division (G) of this section has begun to accrue. 32078

(7) Each tax bill prepared and mailed or delivered under 32079

division (D)(6) of this section shall be in the form and contain 32080
the information required by the tax commissioner. The commissioner 32081
may prescribe different forms for each county and may authorize 32082
the county auditor to make up tax bills and tax receipts to be 32083
used by the county treasurer. The tax bill shall not contain or be 32084
mailed or delivered with any information or material that is not 32085
required by this section or that is not authorized by section 32086
321.45 of the Revised Code or by the tax commissioner. In addition 32087
to the information required by the commissioner, each tax bill 32088
shall contain the following information: 32089

(a) The taxes levied and the taxes charged and payable 32090
against the manufactured or mobile home; 32091

(b) The following notice: "Notice: If the taxes are not paid 32092
within sixty days after the county auditor delivers the delinquent 32093
manufactured home tax list to the county treasurer, you and your 32094
home may be subject to collection proceedings for tax 32095
delinquency." Failure to provide such notice has no effect upon 32096
the validity of any tax judgment to which a home may be subjected. 32097

(c) In the case of manufactured or mobile homes taxed under 32098
division (D)(2) of this section, the following additional 32099
information: 32100

(i) The effective tax rate. The words "effective tax rate" 32101
shall appear in boldface type. 32102

(ii) The following notice: "Notice: If the taxes charged 32103
against this home have been reduced by the 2-1/2 per cent tax 32104
reduction for residences occupied by the owner but the home is not 32105
a residence occupied by the owner, the owner must notify the 32106
county auditor's office not later than March 31 of the year for 32107
which the taxes are due. Failure to do so may result in the owner 32108
being convicted of a fourth degree misdemeanor, which is 32109
punishable by imprisonment up to 30 days, a fine up to \$250, or 32110

both, and in the owner having to repay the amount by which the 32111
taxes were erroneously or illegally reduced, plus any interest 32112
that may apply. 32113

If the taxes charged against this home have not been reduced 32114
by the 2-1/2 per cent tax reduction and the home is a residence 32115
occupied by the owner, the home may qualify for the tax reduction. 32116
To obtain an application for the tax reduction or further 32117
information, the owner may contact the county auditor's office at 32118
..... (insert the address and telephone number of the county 32119
auditor's office)." 32120

(E)(1) A manufactured or mobile home is not subject to this 32121
section when any of the following applies: 32122

(a) It is taxable as personal property pursuant to section 32123
5709.01 of the Revised Code. Any manufactured or mobile home that 32124
is used as a residence shall be subject to this section and shall 32125
not be taxable as personal property pursuant to section 5709.01 of 32126
the Revised Code. 32127

(b) It bears a license plate issued by any state other than 32128
this state unless the home is in this state in excess of an 32129
accumulative period of thirty days in any calendar year. 32130

(c) The annual tax has been paid on the home in this state 32131
for the current year. 32132

(d) The tax commissioner has determined, pursuant to section 32133
5715.27 of the Revised Code, that the property is exempt from 32134
taxation, or would be exempt from taxation under Chapter 5709. of 32135
the Revised Code if it were classified as real property. 32136

(2) A travel trailer or park trailer, as these terms are 32137
defined in section 4501.01 of the Revised Code, is not subject to 32138
this section if it is unused or unoccupied and stored at the 32139
owner's normal place of residence or at a recognized storage 32140
facility. 32141

(3) A travel trailer or park trailer, as these terms are 32142
defined in section 4501.01 of the Revised Code, is subject to this 32143
section and shall be taxed as a manufactured or mobile home if it 32144
has a situs longer than thirty days in one location and is 32145
connected to existing utilities, unless either of the following 32146
applies: 32147

(a) The situs is in a state facility or a camping or park 32148
area as defined in division (B), (G), (H), or (R) of section 32149
3733.01 of the Revised Code; 32150

(b) The situs is in a camping or park area that is a tract of 32151
land that has been limited to recreational use by deed or zoning 32152
restrictions and subdivided for sale of five or more individual 32153
lots for the express or implied purpose of occupancy by either 32154
self-contained recreational vehicles as defined in division (E) of 32155
section 3733.01 of the Revised Code or by dependent recreational 32156
vehicles as defined in division (F) of section 3733.01 of the 32157
Revised Code. 32158

(F) Except as provided in division (D)(3) of this section, 32159
the manufactured home tax is due and payable as follows: 32160

(1) When a manufactured or mobile home has a situs in this 32161
state, as provided in this section, on the first day of January, 32162
one-half of the amount of the tax is due and payable on or before 32163
the first day of March and the balance is due and payable on or 32164
before the thirty-first day of July. At the option of the owner of 32165
the home, the tax for the entire year may be paid in full on the 32166
first day of March. 32167

(2) When a manufactured or mobile home first acquires a situs 32168
in this state after the first day of January, no tax is due and 32169
payable for that year. 32170

(G)(1) If one-half of the current taxes charged under this 32171
section against a manufactured or mobile home, together with the 32172

full amount of any delinquent taxes or any installment thereof 32173
required to be paid under a written undertaking, are not paid on 32174
or before the thirty-first day of January in that year, or on or 32175
before the last day for such payment as extended pursuant to 32176
section 4503.063 of the Revised Code, a penalty of ten per cent 32177
shall be charged against the unpaid balance of such half of the 32178
current taxes. If the total amount of all such taxes is not paid 32179
on or before the thirty-first day of July, next thereafter, or on 32180
or before the last day for such payment as extended pursuant to 32181
section 4503.063 of the Revised Code, a like penalty shall be 32182
charged on the balance of the total amount of such unpaid current 32183
taxes. 32184

(2)(a) On the first day of the month following the last day 32185
the second installment of taxes may be paid without penalty 32186
beginning in 2000, interest shall be charged against and computed 32187
on all delinquent taxes other than the current taxes that became 32188
delinquent taxes at the close of the last day such second 32189
installment could be paid without penalty. The charge shall be for 32190
interest that accrued during the period that began on the 32191
preceding first day of December and ended on the last day of the 32192
month that included the last date such second installment could be 32193
paid without penalty. The interest shall be computed at the rate 32194
per annum prescribed by section 5703.47 of the Revised Code and 32195
shall be entered as a separate item on the delinquent manufactured 32196
home tax list compiled under division (H) of this section. 32197

(b) On the first day of December beginning in 2000, the 32198
interest shall be charged against and computed on all delinquent 32199
taxes. The charge shall be for interest that accrued during the 32200
period that began on the first day of the month following the last 32201
date prescribed for the payment of the second installment of taxes 32202
in the current year and ended on the immediately preceding last 32203
day of November. The interest shall be computed at the rate per 32204

annum prescribed by section 5703.47 of the Revised Code and shall 32205
be entered as a separate item on the delinquent manufactured home 32206
tax list. 32207

(c) After a valid undertaking has been entered into for the 32208
payment of any delinquent taxes, no interest shall be charged 32209
against such delinquent taxes while the undertaking remains in 32210
effect in compliance with section 323.31 of the Revised Code. If a 32211
valid undertaking becomes void, interest shall be charged against 32212
the delinquent taxes for the periods that interest was not 32213
permitted to be charged while the undertaking was in effect. The 32214
interest shall be charged on the day the undertaking becomes void 32215
and shall equal the amount of interest that would have been 32216
charged against the unpaid delinquent taxes outstanding on the 32217
dates on which interest would have been charged thereon under 32218
divisions (G)(1) and (2) of this section had the undertaking not 32219
been in effect. 32220

(3) If the full amount of the taxes due at either of the 32221
times prescribed by division (F) of this section is paid within 32222
ten days after such time, the county treasurer shall waive the 32223
collection of and the county auditor shall remit one-half of the 32224
penalty provided for in this division for failure to make that 32225
payment by the prescribed time. 32226

(4) The treasurer shall compile and deliver to the county 32227
auditor a list of all tax payments the treasurer has received as 32228
provided in division (G)(3) of this section. The list shall 32229
include any information required by the auditor for the remission 32230
of the penalties waived by the treasurer. The taxes so collected 32231
shall be included in the settlement next succeeding the settlement 32232
then in process. 32233

(H)(1) Beginning in 2000, the county auditor shall compile 32234
annually a "delinquent manufactured home tax list" consisting of 32235
homes the county treasurer's records indicate have taxes that were 32236

not paid within the time prescribed by divisions (D)(3) and (F) of 32237
this section, have taxes that remain unpaid from prior years, or 32238
have unpaid tax penalties or interest that have been assessed. 32239

(2) Within thirty days after the settlement under division 32240
(H)(2) of section 321.24 of the Revised Code beginning in 2000, 32241
the county auditor shall deliver a copy of the delinquent 32242
manufactured home tax list to the county treasurer. The auditor 32243
shall update and publish the delinquent manufactured home tax list 32244
annually in the same manner as delinquent real property tax lists 32245
are published. The county auditor shall apportion the cost of 32246
publishing the list among taxing districts in proportion to the 32247
amount of delinquent manufactured home taxes so published that 32248
each taxing district is entitled to receive upon collection of 32249
those taxes. 32250

(3) When taxes, penalties, or interest are charged against a 32251
person on the delinquent manufactured home tax list and are not 32252
paid within sixty days after the list is delivered to the county 32253
treasurer, the county treasurer shall, in addition to any other 32254
remedy provided by law for the collection of taxes, penalties, and 32255
interest, enforce collection of such taxes, penalties, and 32256
interest by civil action in the name of the treasurer against the 32257
owner for the recovery of the unpaid taxes following the 32258
procedures for the recovery of delinquent real property taxes in 32259
sections 323.25 to 323.28 of the Revised Code. The action may be 32260
brought in municipal or county court, provided the amount charged 32261
does not exceed the monetary limitations for original jurisdiction 32262
for civil actions in those courts. 32263

It is sufficient, having made proper parties to the suit, for 32264
the treasurer to allege in the treasurer's bill of particulars or 32265
petition that the taxes stand chargeable on the books of the 32266
county treasurer against such person, that they are due and 32267
unpaid, and that such person is indebted in the amount of taxes 32268

appearing to be due the county. The treasurer need not set forth 32269
any other matter relating thereto. If it is found on the trial of 32270
the action that the person is indebted to the state, judgment 32271
shall be rendered in favor of the treasurer prosecuting the 32272
action. The judgment debtor is not entitled to the benefit of any 32273
law for stay of execution or exemption of property from levy or 32274
sale on execution in the enforcement of the judgment. 32275

(I) The total amount of taxes collected shall be distributed 32276
in the following manner: four per cent shall be allowed as 32277
compensation to the county auditor for the county auditor's 32278
service in assessing the taxes; two per cent shall be allowed as 32279
compensation to the county treasurer for the services the county 32280
treasurer renders as a result of the tax levied by this section. 32281
Such amounts shall be paid into the county treasury, to the credit 32282
of the county general revenue fund, on the warrant of the county 32283
auditor. Fees to be paid to the credit of the real estate 32284
assessment fund shall be collected pursuant to division (B) of 32285
section 319.54 of the Revised Code and paid into the county 32286
treasury, on the warrant of the county auditor. The balance of the 32287
taxes collected shall be distributed among the taxing subdivisions 32288
of the county in which the taxes are collected and paid in the 32289
same ratio as those taxes were collected for the benefit of the 32290
taxing subdivision. The taxes levied and revenues collected under 32291
this section shall be in lieu of any general property tax and any 32292
tax levied with respect to the privilege of using or occupying a 32293
manufactured or mobile home in Ohio except as provided in sections 32294
4503.04 and 5741.02 of the Revised Code. 32295

(J) An agreement to purchase or a bill of sale for a 32296
manufactured home shall show whether or not the furnishings and 32297
equipment are included in the purchase price. 32298

(K) If the county treasurer and the county prosecuting 32299
attorney agree that an item charged on the delinquent manufactured 32300

home tax list is uncollectible, they shall certify that 32301
determination and the reasons to the county board of revision. If 32302
the board determines the amount is uncollectible, it shall certify 32303
its determination to the county auditor, who shall strike the item 32304
from the list. 32305

(L)(1) The county auditor shall appraise at its true value 32306
any manufactured or mobile home in which ownership is transferred 32307
or which first acquires situs in this state on or after January 1, 32308
2000, and any manufactured or mobile home the owner of which has 32309
elected, under division (D)(4) of this section, to have the home 32310
taxed under division (D)(2) of this section. The true value shall 32311
include the value of the home, any additions, and any fixtures, 32312
but not any furnishings in the home. In determining the true value 32313
of a manufactured or mobile home, the auditor shall consider all 32314
facts and circumstances relating to the value of the home, 32315
including its age, its capacity to function as a residence, any 32316
obsolete characteristics, and other factors that may tend to prove 32317
its true value. 32318

(2)(a) If a manufactured or mobile home has been the subject 32319
of an arm's length sale between a willing seller and a willing 32320
buyer within a reasonable length of time prior to the 32321
determination of true value, the auditor shall consider the sale 32322
price of the home to be the true value for taxation purposes. 32323

(b) The sale price in an arm's length transaction between a 32324
willing seller and a willing buyer shall not be considered the 32325
true value of the home if either of the following occurred after 32326
the sale: 32327

(i) The home has lost value due to a casualty; 32328

(ii) An addition or fixture has been added to the home. 32329

(3) The auditor shall have each home viewed and appraised at 32330
least once in each six-year period in the same year in which real 32331

property in the county is appraised pursuant to Chapter 5713. of 32332
the Revised Code, and shall update the appraised values in the 32333
third calendar year following the appraisal. The person viewing or 32334
appraising a home may enter the home to determine by actual view 32335
any additions or fixtures that have been added since the last 32336
appraisal. In conducting the appraisals and establishing the true 32337
value, the auditor shall follow the procedures set forth for 32338
appraising real property in sections 5713.01 and 5713.03 of the 32339
Revised Code. 32340

(4) The auditor shall place the true value of each home on 32341
the manufactured home tax list upon completion of an appraisal. 32342

(5)(a) If the auditor changes the true value of a home, the 32343
auditor shall notify the owner of the home in writing, delivered 32344
by mail or in person. The notice shall be given at least thirty 32345
days prior to the issuance of any tax bill that reflects the 32346
change. Failure to receive the notice does not invalidate any 32347
proceeding under this section. 32348

(b) Any owner of a home or any other person or party listed 32349
in division (A)(1) of section 5715.19 of the Revised Code may file 32350
a complaint against the true value of the home as appraised under 32351
this section. The complaint shall be filed with the county auditor 32352
on or before the thirty-first day of March of the current tax year 32353
or the date of closing of the collection for the first half of 32354
manufactured home taxes for the current tax year, whichever is 32355
later. The auditor shall present to the county board of revision 32356
all complaints filed with the auditor under this section. The 32357
board shall hear and investigate the complaint and may take action 32358
on it as provided under sections 5715.11 to 5715.19 of the Revised 32359
Code. 32360

(c) If the county board of revision determines, pursuant to a 32361
complaint against the valuation of a manufactured or mobile home 32362
filed under this section, that the amount of taxes, assessments, 32363

or other charges paid was in excess of the amount due based on the 32364
valuation as finally determined, then the overpayment shall be 32365
refunded in the manner prescribed in section 5715.22 of the 32366
Revised Code. 32367

(d) Payment of all or part of a tax under this section for 32368
any year for which a complaint is pending before the county board 32369
of revision does not abate the complaint or in any way affect the 32370
hearing and determination thereof. 32371

(M) If the county auditor determines that any tax, 32372
assessment, charge, or any part thereof has been erroneously 32373
charged as a result of a clerical error as defined in section 32374
319.35 of the Revised Code, the county treasurer and the county 32375
board of revision shall remove the erroneous charges on the 32376
manufactured home tax list or delinquent manufactured home tax 32377
list, and refund any erroneous charges that have been collected, 32378
with interest, in the same manner as is prescribed in section 32379
319.36 of the Revised Code for erroneous charges against real 32380
property. 32381

(N) As used in this section and section 4503.061 of the 32382
Revised Code: 32383

(1) "Manufactured home taxes" includes taxes, penalties, and 32384
interest charged under division (C) or (G) of this section and any 32385
penalties charged under division (G) or (H)(5) of section 4503.061 32386
of the Revised Code. 32387

(2) "Current taxes" means all manufactured home taxes charged 32388
against a manufactured or mobile home that have not appeared on 32389
the manufactured home tax list for any prior year. Current taxes 32390
become delinquent taxes if they remain unpaid after the last day 32391
prescribed for payment of the second installment of current taxes 32392
without penalty, whether or not they have been certified 32393
delinquent. 32394

(3) "Delinquent taxes" means:	32395
(a) Any manufactured home taxes that were charged against a manufactured or mobile home for a prior year, including any penalties or interest charged for a prior year, and that remain unpaid;	32396 32397 32398 32399
(b) Any current manufactured home taxes charged against a manufactured or mobile home that remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty, whether or not they have been certified delinquent, including any penalties or interest.	32400 32401 32402 32403 32404
Sec. 4505.06. (A)(1) Application for a certificate of title shall be made in a form prescribed by the registrar of motor vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the registrar in any county with the clerk of the court of common pleas of that county. Any payments required by this chapter shall be considered as accompanying any electronically transmitted application when payment actually is received by the clerk. Payment of any fee or taxes may be made by electronic transfer of funds.	32405 32406 32407 32408 32409 32410 32411 32412 32413 32414 32415 32416
(2) The application for a certificate of title shall be accompanied by the fee prescribed in section 4505.09 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a clerk of a court of common pleas, other than the clerk of the court of common pleas of an applicant's county of residence, issues a certificate of title to the applicant, the clerk shall transmit data related to the transaction to the automated title processing system.	32417 32418 32419 32420 32421 32422 32423 32424 32425

(3) If a certificate of title previously has been issued for 32426
a motor vehicle in this state, the application for a certificate 32427
of title also shall be accompanied by that certificate of title 32428
duly assigned, unless otherwise provided in this chapter. If a 32429
certificate of title previously has not been issued for the motor 32430
vehicle in this state, the application, unless otherwise provided 32431
in this chapter, shall be accompanied by a manufacturer's or 32432
importer's certificate or by a certificate of title of another 32433
state from which the motor vehicle was brought into this state. If 32434
the application refers to a motor vehicle last previously 32435
registered in another state, the application also shall be 32436
accompanied by the physical inspection certificate required by 32437
section 4505.061 of the Revised Code. If the application is made 32438
by two persons regarding a motor vehicle in which they wish to 32439
establish joint ownership with right of survivorship, they may do 32440
so as provided in section 2131.12 of the Revised Code. If the 32441
applicant requests a designation of the motor vehicle in 32442
beneficiary form so that upon the death of the owner of the motor 32443
vehicle, ownership of the motor vehicle will pass to a designated 32444
transfer-on-death beneficiary or beneficiaries, the applicant may 32445
do so as provided in section 2131.13 of the Revised Code. A person 32446
who establishes ownership of a motor vehicle that is transferable 32447
on death in accordance with section 2131.13 of the Revised Code 32448
may terminate that type of ownership or change the designation of 32449
the transfer-on-death beneficiary or beneficiaries by applying for 32450
a certificate of title pursuant to this section. The clerk shall 32451
retain the evidence of title presented by the applicant and on 32452
which the certificate of title is issued, except that, if an 32453
application for a certificate of title is filed electronically by 32454
an electronic motor vehicle dealer on behalf of the purchaser of a 32455
motor vehicle, the clerk shall retain the completed electronic 32456
record to which the dealer converted the certificate of title 32457
application and other required documents. The electronic motor 32458

vehicle dealer shall forward the actual application and all other 32459
documents relating to the sale of the motor vehicle to any clerk 32460
within thirty days after the certificate of title is issued. The 32461
registrar, after consultation with the attorney general, shall 32462
adopt rules that govern the location at which, and the manner in 32463
which, are stored the actual application and all other documents 32464
relating to the sale of a motor vehicle when an electronic motor 32465
vehicle dealer files the application for a certificate of title 32466
electronically on behalf of the purchaser. 32467

The clerk shall use reasonable diligence in ascertaining 32468
whether or not the facts in the application for a certificate of 32469
title are true by checking the application and documents 32470
accompanying it or the electronic record to which a dealer 32471
converted the application and accompanying documents with the 32472
records of motor vehicles in the clerk's office. If the clerk is 32473
satisfied that the applicant is the owner of the motor vehicle and 32474
that the application is in the proper form, the clerk, within five 32475
business days after the application is filed, shall issue a 32476
physical certificate of title over the clerk's signature and 32477
sealed with the clerk's seal unless the applicant specifically 32478
requests the clerk not to issue a physical certificate of title 32479
and instead to issue an electronic certificate of title. For 32480
purposes of the transfer of a certificate of title, if the clerk 32481
is satisfied that the secured party has duly discharged a lien 32482
notation but has not canceled the lien notation with a clerk, the 32483
clerk may cancel the lien notation on the automated title 32484
processing system and notify the clerk of the county of origin. 32485

(4) In the case of the sale of a motor vehicle to a general 32486
buyer or user by a dealer, by a motor vehicle leasing dealer 32487
selling the motor vehicle to the lessee or, in a case in which the 32488
leasing dealer subleased the motor vehicle, the sublessee, at the 32489
end of the lease agreement or sublease agreement, or by a 32490

manufactured home broker, the certificate of title shall be 32491
obtained in the name of the buyer by the dealer, leasing dealer, 32492
or manufactured home broker, as the case may be, upon application 32493
signed by the buyer. The certificate of title shall be issued, or 32494
the process of entering the certificate of title application 32495
information into the automated title processing system if a 32496
physical certificate of title is not to be issued shall be 32497
completed, within five business days after the application for 32498
title is filed with the clerk. If the buyer of the motor vehicle 32499
previously leased the motor vehicle and is buying the motor 32500
vehicle at the end of the lease pursuant to that lease, the 32501
certificate of title shall be obtained in the name of the buyer by 32502
the motor vehicle leasing dealer who previously leased the motor 32503
vehicle to the buyer or by the motor vehicle leasing dealer who 32504
subleased the motor vehicle to the buyer under a sublease 32505
agreement. 32506

In all other cases, except as provided in section 4505.032 32507
and division (D)(2) of section 4505.11 of the Revised Code, such 32508
certificates shall be obtained by the buyer. 32509

(5)(a)(i) If the certificate of title is being obtained in 32510
the name of the buyer by a motor vehicle dealer or motor vehicle 32511
leasing dealer and there is a security interest to be noted on the 32512
certificate of title, the dealer or leasing dealer shall submit 32513
the application for the certificate of title and payment of the 32514
applicable tax to a clerk within seven business days after the 32515
later of the delivery of the motor vehicle to the buyer or the 32516
date the dealer or leasing dealer obtains the manufacturer's or 32517
importer's certificate, or certificate of title issued in the name 32518
of the dealer or leasing dealer, for the motor vehicle. Submission 32519
of the application for the certificate of title and payment of the 32520
applicable tax within the required seven business days may be 32521
indicated by postmark or receipt by a clerk within that period. 32522

(ii) Upon receipt of the certificate of title with the security interest noted on its face, the dealer or leasing dealer shall forward the certificate of title to the secured party at the location noted in the financing documents or otherwise specified by the secured party.

(iii) A motor vehicle dealer or motor vehicle leasing dealer is liable to a secured party for a late fee of ten dollars per day for each certificate of title application and payment of the applicable tax that is submitted to a clerk more than seven business days but less than twenty-one days after the later of the delivery of the motor vehicle to the buyer or the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the name of the dealer or leasing dealer, for the motor vehicle and, from then on, twenty-five dollars per day until the application and applicable tax are submitted to a clerk.

(b) In all cases of transfer of a motor vehicle, the application for certificate of title shall be filed within thirty days after the assignment or delivery of the motor vehicle. If an application for a certificate of title is not filed within the period specified in division (A)(5)(b) of this section, the clerk shall collect a fee of five dollars for the issuance of the certificate, except that no such fee shall be required from a motor vehicle salvage dealer, as defined in division (A) of section 4738.01 of the Revised Code, who immediately surrenders the certificate of title for cancellation. The fee shall be in addition to all other fees established by this chapter, and shall be retained by the clerk. The registrar shall provide, on the certificate of title form prescribed by section 4505.07 of the Revised Code, language necessary to give evidence of the date on which the assignment or delivery of the motor vehicle was made.

(6) As used in division (A) of this section, "lease

agreement," "lessee," and "sublease agreement" have the same 32555
meanings as in section 4505.04 of the Revised Code. 32556

(B) The clerk, except as provided in this section, shall 32557
refuse to accept for filing any application for a certificate of 32558
title and shall refuse to issue a certificate of title unless the 32559
dealer or manufactured home broker or the applicant, in cases in 32560
which the certificate shall be obtained by the buyer, submits with 32561
the application payment of the tax levied by or pursuant to 32562
Chapters 5739. and 5741. of the Revised Code based on the 32563
purchaser's county of residence. Upon payment of the tax in 32564
accordance with division (E) of this section, the clerk shall 32565
issue a receipt prescribed by the registrar and agreed upon by the 32566
tax commissioner showing payment of the tax or a receipt issued by 32567
the commissioner showing the payment of the tax. When submitting 32568
payment of the tax to the clerk, a dealer shall retain any 32569
discount to which the dealer is entitled under section 5739.12 of 32570
the Revised Code. 32571

For receiving and disbursing such taxes paid to the clerk by 32572
a resident of the clerk's county, the clerk may retain a poundage 32573
fee of one and one one-hundredth per cent, and the clerk shall pay 32574
the poundage fee into the certificate of title administration fund 32575
created by section 325.33 of the Revised Code. The clerk shall not 32576
retain a poundage fee from payments of taxes by persons who do not 32577
reside in the clerk's county. 32578

A clerk, however, may retain from the taxes paid to the clerk 32579
an amount equal to the poundage fees associated with certificates 32580
of title issued by other clerks of courts of common pleas to 32581
applicants who reside in the first clerk's county. The registrar, 32582
in consultation with the tax commissioner and the clerks of the 32583
courts of common pleas, shall develop a report from the automated 32584
title processing system that informs each clerk of the amount of 32585
the poundage fees that the clerk is permitted to retain from those 32586

taxes because of certificates of title issued by the clerks of 32587
other counties to applicants who reside in the first clerk's 32588
county. 32589

In the case of casual sales of motor vehicles, as defined in 32590
section 4517.01 of the Revised Code, the price for the purpose of 32591
determining the tax shall be the purchase price on the assigned 32592
certificate of title executed by the seller and filed with the 32593
clerk by the buyer on a form to be prescribed by the registrar, 32594
which shall be prima-facie evidence of the amount for the 32595
determination of the tax. 32596

(C)(1) If the transferor indicates on the certificate of 32597
title that the odometer reflects mileage in excess of the designed 32598
mechanical limit of the odometer, the clerk shall enter the phrase 32599
"exceeds mechanical limits" following the mileage designation. If 32600
the transferor indicates on the certificate of title that the 32601
odometer reading is not the actual mileage, the clerk shall enter 32602
the phrase "nonactual: warning - odometer discrepancy" following 32603
the mileage designation. The clerk shall use reasonable care in 32604
transferring the information supplied by the transferor, but is 32605
not liable for any errors or omissions of the clerk or those of 32606
the clerk's deputies in the performance of the clerk's duties 32607
created by this chapter. 32608

The registrar shall prescribe an affidavit in which the 32609
transferor shall swear to the true selling price and, except as 32610
provided in this division, the true odometer reading of the motor 32611
vehicle. The registrar may prescribe an affidavit in which the 32612
seller and buyer provide information pertaining to the odometer 32613
reading of the motor vehicle in addition to that required by this 32614
section, as such information may be required by the United States 32615
secretary of transportation by rule prescribed under authority of 32616
subchapter IV of the "Motor Vehicle Information and Cost Savings 32617
Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 32618

(2) Division (C)(1) of this section does not require the giving of information concerning the odometer and odometer reading of a motor vehicle when ownership of a motor vehicle is being transferred as a result of a bequest, under the laws of intestate succession, to a survivor pursuant to section 2106.18, 2131.12, or 4505.10 of the Revised Code, to a transfer-on-death beneficiary or beneficiaries pursuant to section 2131.13 of the ~~Revised~~ Revised Code, or in connection with the creation of a security interest.

(D) When the transfer to the applicant was made in some other state or in interstate commerce, the clerk, except as provided in this section, shall refuse to issue any certificate of title unless the tax imposed by or pursuant to Chapter 5741. of the Revised Code based on the purchaser's county of residence has been paid as evidenced by a receipt issued by the tax commissioner, or unless the applicant submits with the application payment of the tax. Upon payment of the tax in accordance with division (E) of this section, the clerk shall issue a receipt prescribed by the registrar and agreed upon by the tax commissioner, showing payment of the tax.

For receiving and disbursing such taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The registrar, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those

taxes because of certificates of title issued by the clerks of 32651
other counties to applicants who reside in the first clerk's 32652
county. 32653

When the vendor is not regularly engaged in the business of 32654
selling motor vehicles, the vendor shall not be required to 32655
purchase a vendor's license or make reports concerning those 32656
sales. 32657

(E) The clerk shall accept any payment of a tax in cash, or 32658
by cashier's check, certified check, draft, money order, or teller 32659
check issued by any insured financial institution payable to the 32660
clerk and submitted with an application for a certificate of title 32661
under division (B) or (D) of this section. The clerk also may 32662
accept payment of the tax by corporate, business, or personal 32663
check, credit card, electronic transfer or wire transfer, debit 32664
card, or any other accepted form of payment made payable to the 32665
clerk. The clerk may require bonds, guarantees, or letters of 32666
credit to ensure the collection of corporate, business, or 32667
personal checks. Any service fee charged by a third party to a 32668
clerk for the use of any form of payment may be paid by the clerk 32669
from the certificate of title administration fund created in 32670
section 325.33 of the Revised Code, or may be assessed by the 32671
clerk upon the applicant as an additional fee. Upon collection, 32672
the additional fees shall be paid by the clerk into that 32673
certificate of title administration fund. 32674

The clerk shall make a good faith effort to collect any 32675
payment of taxes due but not made because the payment was returned 32676
or dishonored, but the clerk is not personally liable for the 32677
payment of uncollected taxes or uncollected fees. The clerk shall 32678
notify the tax commissioner of any such payment of taxes that is 32679
due but not made and shall furnish the information to the 32680
commissioner that the commissioner requires. The clerk shall 32681
deduct the amount of taxes due but not paid from the clerk's 32682

periodic remittance of tax payments, in accordance with procedures 32683
agreed upon by the tax commissioner. The commissioner may collect 32684
taxes due by assessment in the manner provided in section 5739.13 32685
of the Revised Code. 32686

Any person who presents payment that is returned or 32687
dishonored for any reason is liable to the clerk for payment of a 32688
penalty over and above the amount of the taxes due. The clerk 32689
shall determine the amount of the penalty, and the penalty shall 32690
be no greater than that amount necessary to compensate the clerk 32691
for banking charges, legal fees, or other expenses incurred by the 32692
clerk in collecting the returned or dishonored payment. The 32693
remedies and procedures provided in this section are in addition 32694
to any other available civil or criminal remedies. Subsequently 32695
collected penalties, poundage fees, and title fees, less any title 32696
fee due the state, from returned or dishonored payments collected 32697
by the clerk shall be paid into the certificate of title 32698
administration fund. Subsequently collected taxes, less poundage 32699
fees, shall be sent by the clerk to the treasurer of state at the 32700
next scheduled periodic remittance of tax payments, with 32701
information as the commissioner may require. The clerk may abate 32702
all or any part of any penalty assessed under this division. 32703

(F) In the following cases, the clerk shall accept for filing 32704
an application and shall issue a certificate of title without 32705
requiring payment or evidence of payment of the tax: 32706

(1) When the purchaser is this state or any of its political 32707
subdivisions, a church, or an organization whose purchases are 32708
exempted by section 5739.02 of the Revised Code; 32709

(2) When the transaction in this state is not a retail sale 32710
as defined by section 5739.01 of the Revised Code; 32711

(3) When the purchase is outside this state or in interstate 32712
commerce and the purpose of the purchaser is not to use, store, or 32713

consume within the meaning of section 5741.01 of the Revised Code; 32714

(4) When the purchaser is the federal government; 32715

(5) When the motor vehicle was purchased outside this state 32716
for use outside this state; 32717

(6) When the motor vehicle is purchased by a nonresident of 32718
this state for immediate removal from this state, and will be 32719
permanently titled and registered in another state, as provided by 32720
division (B)~~(23)~~(19) of section 5739.02 of the Revised Code, and 32721
upon presentation of a copy of the affidavit provided by that 32722
section, and a copy of the exemption certificate provided by 32723
section 5739.03 of the Revised Code. 32724

The clerk shall forward all payments of taxes, less poundage 32725
fees, to the treasurer of state in a manner to be prescribed by 32726
the tax commissioner and shall furnish information to the 32727
commissioner as the commissioner requires. 32728

(G) An application, as prescribed by the registrar and agreed 32729
to by the tax commissioner, shall be filled out and sworn to by 32730
the buyer of a motor vehicle in a casual sale. The application 32731
shall contain the following notice in bold lettering: "WARNING TO 32732
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by 32733
law to state the true selling price. A false statement is in 32734
violation of section 2921.13 of the Revised Code and is punishable 32735
by six months' imprisonment or a fine of up to one thousand 32736
dollars, or both. All transfers are audited by the department of 32737
taxation. The seller and buyer must provide any information 32738
requested by the department of taxation. The buyer may be assessed 32739
any additional tax found to be due." 32740

(H) For sales of manufactured homes or mobile homes occurring 32741
on or after January 1, 2000, the clerk shall accept for filing, 32742
pursuant to Chapter 5739. of the Revised Code, an application for 32743
a certificate of title for a manufactured home or mobile home 32744

without requiring payment of any tax pursuant to section 5739.02, 32745
5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt 32746
issued by the tax commissioner showing payment of the tax. For 32747
sales of manufactured homes or mobile homes occurring on or after 32748
January 1, 2000, the applicant shall pay to the clerk an 32749
additional fee of five dollars for each certificate of title 32750
issued by the clerk for a manufactured or mobile home pursuant to 32751
division (H) of section 4505.11 of the Revised Code and for each 32752
certificate of title issued upon transfer of ownership of the 32753
home. The clerk shall credit the fee to the county certificate of 32754
title administration fund, and the fee shall be used to pay the 32755
expenses of archiving those certificates pursuant to division (A) 32756
of section 4505.08 and division (H)(3) of section 4505.11 of the 32757
Revised Code. The tax commissioner shall administer any tax on a 32758
manufactured or mobile home pursuant to Chapters 5739. and 5741. 32759
of the Revised Code. 32760

(I) Every clerk shall have the capability to transact by 32761
electronic means all procedures and transactions relating to the 32762
issuance of motor vehicle certificates of title that are described 32763
in the Revised Code as being accomplished by electronic means. 32764

Sec. 4509.60. Upon acceptance of a bond with individual 32765
sureties, the registrar of motor vehicles shall forward to the 32766
county recorder of the county in which the sureties' real estate 32767
is located a notice of such deposit and pay the recorder a base 32768
fee of five dollars for filing and indexing the notice and a 32769
housing trust fund fee of five dollars pursuant to section 317.36 32770
of the Revised Code. The recorder shall receive and file such 32771
notice and keep and index the same. Such bond shall constitute a 32772
lien in favor of the state upon the real estate so scheduled or 32773
any surety, and the lien shall exist in favor of any holder of a 32774
final judgment against the person who has filed the bond, for 32775
damages, including damages for care and loss of services, because 32776

of bodily injury to or death of any person, or for damage because 32777
of injury to property, including the loss of use thereof, 32778
resulting from the ownership, maintenance, or use of a motor 32779
vehicle after such bond was filed, upon the filing of notice to 32780
that effect by the registrar with the county recorder as provided 32781
in this section. 32782

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 32783
trackless trolley upon meeting or overtaking from either direction 32784
any school bus stopped for the purpose of receiving or discharging 32785
any school child, person attending programs offered by community 32786
boards of mental health and county boards of mental retardation 32787
and developmental disabilities, or child attending a program 32788
offered by a head start agency, shall stop at least ten feet from 32789
the front or rear of the school bus and shall not proceed until 32790
such school bus resumes motion, or until signaled by the school 32791
bus driver to proceed. 32792

It is no defense to a charge under this division that the 32793
school bus involved failed to display or be equipped with an 32794
automatically extended stop warning sign as required by division 32795
(B) of this section. 32796

(B) Every school bus shall be equipped with amber and red 32797
visual signals meeting the requirements of section 4511.771 of the 32798
Revised Code, and an automatically extended stop warning sign of a 32799
type approved by the state board of education, which shall be 32800
actuated by the driver of the bus whenever but only whenever the 32801
bus is stopped or stopping on the roadway for the purpose of 32802
receiving or discharging school children, persons attending 32803
programs offered by community boards of mental health and county 32804
boards of mental retardation and developmental disabilities, or 32805
children attending programs offered by head start agencies. A 32806
school bus driver shall not actuate the visual signals or the stop 32807

warning sign in designated school bus loading areas where the bus 32808
is entirely off the roadway or at school buildings when children 32809
or persons attending programs offered by community boards of 32810
mental health and county boards of mental retardation and 32811
developmental disabilities are loading or unloading at curbside or 32812
at buildings when children attending programs offered by head 32813
start agencies are loading or unloading at curbside. The visual 32814
signals and stop warning sign shall be synchronized or otherwise 32815
operated as required by rule of the board. 32816

(C) Where a highway has been divided into four or more 32817
traffic lanes, a driver of a vehicle, streetcar, or trackless 32818
trolley need not stop for a school bus approaching from the 32819
opposite direction which has stopped for the purpose of receiving 32820
or discharging any school child, persons attending programs 32821
offered by community boards of mental health and county boards of 32822
mental retardation and developmental disabilities, or children 32823
attending programs offered by head start agencies. The driver of 32824
any vehicle, streetcar, or trackless trolley overtaking the school 32825
bus shall comply with division (A) of this section. 32826

(D) School buses operating on divided highways or on highways 32827
with four or more traffic lanes shall receive and discharge all 32828
school children, persons attending programs offered by community 32829
boards of mental health and county boards of mental retardation 32830
and developmental disabilities, and children attending programs 32831
offered by head start agencies on their residence side of the 32832
highway. 32833

(E) No school bus driver shall start the driver's bus until 32834
after any child, person attending programs offered by community 32835
boards of mental health and county boards of mental retardation 32836
and developmental disabilities, or child attending a program 32837
offered by a head start agency who may have alighted therefrom has 32838
reached a place of safety on the child's or person's residence 32839

side of the road. 32840

(F) As used in this section: 32841

(1) "Head start agency" has the same meaning as in ~~division~~ 32842
~~(A)(1)~~ of section 3301.31 of the Revised Code. 32843

(2) "School bus," as used in relation to children who attend 32844
a program offered by a head start agency, means a bus that is 32845
owned and operated by a head start agency, is equipped with an 32846
automatically extended stop warning sign of a type approved by the 32847
state board of education, is painted the color and displays the 32848
markings described in section 4511.77 of the Revised Code, and is 32849
equipped with amber and red visual signals meeting the 32850
requirements of section 4511.771 of the Revised Code, irrespective 32851
of whether or not the bus has fifteen or more children aboard at 32852
any time. "School bus" does not include a van owned and operated 32853
by a head start agency, irrespective of its color, lights, or 32854
markings. 32855

Sec. 4707.071. (A) On May 1, 1991, all persons licensed as 32856
auction companies under former section 4707.071 of the Revised 32857
Code shall comply with all provisions of this chapter that are 32858
applicable to auctioneers except as provided in divisions (B) and 32859
(C) of this section. Such persons, however, do not have to serve 32860
an apprenticeship or attend a course of study under section 32861
4707.09 of the Revised Code or submit to an examination under 32862
section 4707.08 of the Revised Code as long as they do not engage 32863
in the calling for, recognition of, and the acceptance of, offers 32864
for the purchase of personal property at auction and do not 32865
conduct auctions at any location other than the definite place of 32866
business required in section 4707.14 of the Revised Code. 32867

(B) The principal owner of each auction company ~~which~~ that is 32868
licensed as of May 1, 1991, who pays the annual renewal fee 32869
specified in division ~~(A)~~(B) of section 4707.10 of the Revised 32870

Code during the first renewal period following May 1, 1991, shall 32871
be issued a special auctioneer's license, for the sale of personal 32872
property subject to division (A) of this section. Each principal 32873
owner shall apply for an annual license. In applying for an annual 32874
license, each person licensed as an auction company on May 1, 32875
1991, shall designate an individual as principal owner by 32876
submitting documentation substantiating that the individual is in 32877
fact the principal owner and shall identify a definite place of 32878
business as required in section 4707.14 of the Revised Code. A 32879
person licensed as an auctioneer shall not be entitled to a 32880
special auctioneer's license. 32881

(C) A special auctioneer's license issued under this section 32882
to the principal owner of a former auction company does not 32883
entitle the principal owner or former auction company to conduct 32884
auctions at any location other than the definite place of business 32885
required in section 4707.14 of the Revised Code. Notwithstanding 32886
section 4707.10 of the Revised Code, the department of agriculture 32887
shall not issue a new special auctioneer's license if the definite 32888
place of business identified by the licensee in the licensee's 32889
initial application for a special auctioneer license has changed 32890
or if the name under which the licensee is doing business has 32891
changed. No person other than an owner, officer, member, or agent 32892
of the former auction company who personally has passed the 32893
examination prescribed in section 4707.08 of the Revised Code and 32894
been licensed as an auctioneer shall engage in the calling for, 32895
recognition of, and the acceptance of, offers for the purchase of 32896
real or personal property, goods, or chattels at auction in 32897
connection with a former auction company that has been issued a 32898
special auctioneer's license. 32899

(D) A person licensed as a special auctioneer shall not 32900
engage in the sale of real property at auction. 32901

Sec. 4707.072. (A) For purposes of this section, the department of agriculture shall adopt rules in accordance with section 4707.19 of the Revised Code prescribing the fee that a license applicant must pay. Until those rules are adopted, a license applicant shall pay the fee established in this section.

(B) The department of agriculture may grant one-auction licenses to any nonresident person deemed qualified by the department. Any person who applies for a one-auction license shall attest, on forms provided by the department, and furnish to the department, satisfactory proof that the license applicant or any auctioneer affiliated with the applicant meets the following requirements:

(A)(1) Has a good reputation;

(B)(2) Is of trustworthy character;

(C)(3) Has attained the age of at least eighteen years;

(D)(4) Has a general knowledge of the requirements of the Revised Code relative to auctioneers, the auction profession, and the principles involved in conducting an auction;

(E)(5) Has two years of professional auctioneering experience immediately preceding the date of application and the experience includes the personal conduct by the applicant of at least twelve auction sales in any state, or has met the requirements of section 4707.12 of the Revised Code;

(F)(6) Has paid a fee of one hundred dollars, which shall be credited to the auctioneers fund;

(G)(7) Has provided proof of financial responsibility as required under section 4707.11 of the Revised Code in the form of either an irrevocable letter of credit or a cash bond or a surety bond in the amount of fifty thousand dollars. If the applicant gives a surety bond, the bond shall be executed by a surety

company authorized to do business in this state. A bond shall be 32932
made to the department and shall be conditioned that the applicant 32933
shall comply with this chapter and rules adopted under it, 32934
including refraining from conduct described in section 4707.15 of 32935
the Revised Code. All bonds shall be on a form approved by the 32936
director of agriculture. 32937

Sec. 4707.10. (A) For purposes of this section, the 32938
department of agriculture shall adopt rules in accordance with 32939
section 4707.19 of the Revised Code prescribing fees that 32940
licensees must pay and license renewal deadlines and procedures 32941
with which licensees must comply. Until those rules are adopted, 32942
licensees shall pay the fees and comply with the license renewal 32943
deadlines and procedures established in this section. 32944

(B) The fee for each auctioneer's, apprentice auctioneer's, 32945
or special auctioneer's license issued by the department of 32946
~~agriculture~~ is one hundred dollars, and the annual renewal fee for 32947
any such license is one hundred dollars. All licenses expire 32948
annually on the last day of June of each year and shall be renewed 32949
according to the standard renewal procedures of Chapter 4745. of 32950
the Revised Code, or the procedures of this section. Any licensee 32951
under this chapter who wishes to renew the licensee's license, but 32952
fails to do so before the first day of July shall reapply for 32953
licensure in the same manner and pursuant to the same requirements 32954
as for initial licensure, unless before the first day of September 32955
of the year of expiration, the former licensee pays to the 32956
department, in addition to the regular renewal fee, a late renewal 32957
penalty of one hundred dollars. 32958

~~(B)~~(C) Any person who fails to renew the person's license 32959
before the first day of July is prohibited from engaging in any 32960
activity specified or comprehended in section 4707.01 of the 32961
Revised Code until such time as the person's license is renewed or 32962

a new license is issued. Renewal of a license between the first 32963
day of July and the first day of September does not relieve any 32964
person from complying with this division. The department may 32965
refuse to renew the license of or issue a new license to any 32966
person who violates this division. 32967

~~(C)~~(D) The department shall prepare and deliver to each 32968
licensee a permanent license certificate and an ~~annual-renewal~~ 32969
identification card, the appropriate portion of which shall be 32970
carried on the person of the licensee at all times when engaged in 32971
any type of auction activity, and part of which shall be posted 32972
with the permanent certificate in a conspicuous location at the 32973
licensee's place of business. 32974

~~(D)~~(E) Notice in writing shall be given to the department by 32975
each auctioneer or apprentice auctioneer licensee of any change of 32976
principal business location or any change or addition to the name 32977
or names under which business is conducted, whereupon the 32978
department shall issue a new license for the unexpired period. Any 32979
change of business location or change or addition of names without 32980
notification to the department shall automatically cancel any 32981
license previously issued. For each new auctioneer or apprentice 32982
auctioneer license issued upon the occasion of a change in 32983
business location or a change in or an addition of names under 32984
which business is conducted, the department may collect a fee of 32985
ten dollars for each change in location, or name or each added 32986
name unless the notification of the change occurs concurrently 32987
with the renewal application. 32988

Sec. 4707.24. Except for the purposes of divisions (A) and 32989
(B) of section 4707.25 of the Revised Code, sections 4707.25 to 32990
4707.31 of the Revised Code do not apply with respect to a license 32991
issued under section 4707.072 of the Revised Code. 32992

Sec. 4709.12. (A) The barber board shall charge and collect	32993
the following fees:	32994
(1) For the application to take the barber examination, sixty	32995
<u>ninety</u> dollars;	32996
(2) For an application to retake any part of the barber	32997
examination, thirty <u>forty-five</u> dollars;	32998
(3) For the initial issuance of a license to practice as a	32999
barber, twenty <u>thirty</u> dollars;	33000
(4) For the biennial renewal of the license to practice as a	33001
barber, seventy-five <u>one hundred ten</u> dollars;	33002
(5) For the restoration of an expired barber license, one	33003
hundred dollars, and fifty <u>seventy-five</u> dollars for each lapsed	33004
year, provided that the total fee shall not exceed four <u>six</u>	33005
hundred sixty <u>ninety</u> dollars;	33006
(6) For the issuance of a duplicate barber or shop license,	33007
thirty <u>forty-five</u> dollars;	33008
(7) For the inspection of a new barber shop, change of	33009
ownership, or reopening of premises or facilities formerly	33010
operated as a barber shop, and issuance of a shop license,	33011
seventy-five <u>one hundred ten</u> dollars;	33012
(8) For the biennial renewal of a barber shop license, fifty	33013
<u>seventy-five</u> dollars;	33014
(9) For the restoration of a barber shop license,	33015
seventy-five <u>one hundred ten</u> dollars;	33016
(10) For each inspection of premises for location of a new	33017
barber school, or each inspection of premises for relocation of a	33018
currently licensed barber school, five <u>seven</u> hundred <u>fifty</u>	33019
dollars;	33020
(11) For the initial barber school license, five-hundred <u>one</u>	33021

thousand dollars, and ~~five hundred~~ one thousand dollars for the 33022
renewal of the license; 33023

(12) For the restoration of a barber school license, ~~six~~ 33024
~~hundred~~ one thousand dollars; 33025

(13) For the issuance of a student registration, ~~twenty-five~~ 33026
forty dollars; 33027

(14) For the examination and issuance of a biennial teacher 33028
~~or assistant teacher~~ license, one hundred ~~twenty-five~~ eighty-five 33029
dollars; 33030

(15) For the renewal of a biennial teacher ~~or assistant~~ 33031
~~teacher~~ license, one hundred fifty dollars; 33032

(16) For the restoration of an expired teacher ~~or assistant~~ 33033
~~teacher~~ license, ~~one~~ two hundred ~~fifty~~ twenty-five dollars, and 33034
~~forty~~ sixty dollars for each lapsed year, provided that the total 33035
fee shall not exceed ~~three~~ four hundred fifty dollars; 33036

(17) For the issuance of a barber license by reciprocity 33037
pursuant to section 4709.08 of the Revised Code, ~~two~~ three hundred 33038
dollars; 33039

(18) For providing licensure information concerning an 33040
applicant, upon written request of the applicant, ~~twenty-five~~ 33041
forty dollars. 33042

(B) The board, subject to the approval of the controlling 33043
board, may establish fees in excess of the amounts provided in 33044
this section, provided that the fees do not exceed the amounts 33045
permitted by this section by more than fifty per cent. 33046

Sec. 4717.07. (A) The board of embalmers and funeral 33047
directors shall charge and collect the following fees: 33048

(1) For the issuance of an initial embalmer's or funeral 33049
director's license, ~~five~~ one hundred forty dollars; 33050

(2) For the issuance of an embalmer or funeral director registration, twenty-five <u>one hundred</u> dollars;	33051 33052
(3) For filing an embalmer or funeral director certificate of apprenticeship, ten <u>fifty</u> dollars;	33053 33054
(4) For the application to take the examination for a license to practice as an embalmer or funeral director, or to retake a section of the examination, thirty-five dollars;	33055 33056 33057
(5) For the biennial renewal of an embalmer's or funeral director's license, one hundred twenty <u>forty</u> dollars;	33058 33059
(6) For the initial issuance of a license to operate a funeral home, one two hundred twenty-five <u>fifty</u> dollars and biennial renewal of a license to operate a funeral home, two hundred fifty dollars;	33060 33061 33062 33063
(7) For the reinstatement of a lapsed embalmer's or funeral director's license, the renewal fee prescribed in division (A)(5) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;	33064 33065 33066 33067
(8) For the reinstatement of a lapsed license to operate a funeral home, the renewal fee prescribed in division (A)(6) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;	33068 33069 33070 33071
(9) For the initial issuance of a license to operate an embalming facility, one two <u>hundred</u> dollars and biennial renewal of a license to operate an embalming facility, two hundred dollars;	33072 33073 33074 33075
(10) For the reinstatement of a lapsed license to operate an embalming facility, the renewal fee prescribed in division (A)(9) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;	33076 33077 33078 33079
(11) For the initial issuance of a license to operate a	33080

crematory facility, ~~one~~ two hundred dollars and biennial renewal 33081
of a license to operate a crematory facility, two hundred dollars; 33082

(12) For the reinstatement of a lapsed license to operate a 33083
crematory facility, the renewal fee prescribed in division (A)(11) 33084
of this section plus fifty dollars for each month or portion of a 33085
month the license is lapsed until reinstatement; 33086

(13) For the issuance of a duplicate of a license issued 33087
under this chapter, four dollars. 33088

(B) In addition to the fees set forth in division (A) of this 33089
section, an applicant shall pay the examination fee assessed by 33090
any examining agency the board uses for any section of an 33091
examination required under this chapter. 33092

(C) Subject to the approval of the controlling board, the 33093
board of embalmers and funeral directors may establish fees in 33094
excess of the amounts set forth in this section, provided that 33095
these fees do not exceed the amounts set forth in this section by 33096
more than fifty per cent. 33097

Sec. 4717.09. (A) Every two years, licensed embalmers and 33098
funeral directors shall attend between twelve and thirty hours of 33099
educational programs as a condition for renewal of their licenses. 33100
The board of embalmers and funeral directors shall adopt rules 33101
governing the administration and enforcement of the continuing 33102
education requirements of this section. The board may contract 33103
with a professional organization or association or other third 33104
party to assist it in performing functions necessary to administer 33105
and enforce the continuing education requirements of this section. 33106
A professional organization or association or other third party 33107
with whom the board so contracts may charge a reasonable fee for 33108
performing these functions to licensees or to the persons who 33109
provide continuing education programs. 33110

(B) A person holding both an embalmer's license and a funeral director's license need meet only the continuing education requirements established by the board for one or the other of those licenses in order to satisfy the requirement of division (A) of this section.

(C) The board shall not renew the license of a licensee who fails to meet the continuing education requirements of this section and who has not been granted a waiver or exemption under division (D) or (E) of this section.

(D) Any licensee who fails to meet the continuing education requirements of this section because of undue hardship or disability, or who is not actively engaged in the practice of funeral directing or embalming in this state, may apply to the board for a waiver or an exemption. ~~The~~

(E) A licensee who has been an embalmer or a funeral director for not less than fifty years and is not actually in charge of an embalming facility or funeral home may apply to the board for an exemption.

(F) The board shall determine, by rule, the procedures for applying for a waiver or an exemption from continuing education requirements under this section and under what conditions a waiver or an exemption may be granted.

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 of the Revised Code:

(1) "Affiliate" means a business entity that is owned by, operated by, controlled by, or under common control with another business entity.

(2) "Communication" means a written or oral notification or advertisement that meets both of the following criteria, as applicable:

(a) The notification or advertisement is transmitted by or on behalf of the seller of goods or services and by or through any printed, audio, video, cinematic, telephonic, or electronic means.

(b) In the case of a notification or advertisement other than by telephone, either of the following conditions is met:

(i) The notification or advertisement is followed by a telephone call from a telephone solicitor or salesperson.

(ii) The notification or advertisement invites a response by telephone, and, during the course of that response, a telephone solicitor or salesperson attempts to make or makes a sale of goods or services. As used in division (A)(2)(b)(ii) of this section, "invites a response by telephone" excludes the mere listing or inclusion of a telephone number in a notification or advertisement.

(3) "Gift, award, or prize" means anything of value that is offered or purportedly offered, or given or purportedly given by chance, at no cost to the receiver and with no obligation to purchase goods or services. As used in this division, "chance" includes a situation in which a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telephone solicitor does not identify the specific item that the person will receive.

(4) "Goods or services" means any real property or any tangible or intangible personal property, or services of any kind provided or offered to a person. "Goods or services" includes, but is not limited to, advertising; labor performed for the benefit of a person; personal property intended to be attached to or installed in any real property, regardless of whether it is so attached or installed; timeshare estates or licenses; and extended service contracts.

(5) "Purchaser" means a person that is solicited to become or

does become financially obligated as a result of a telephone solicitation. 33172
33173

(6) "Salesperson" means an individual who is employed, appointed, or authorized by a telephone solicitor to make telephone solicitations but does not mean any of the following: 33174
33175
33176

(a) An individual who comes within one of the exemptions in division (B) of this section; 33177
33178

(b) An individual employed, appointed, or authorized by a person who comes within one of the exemptions in division (B) of this section; 33179
33180
33181

(c) An individual under a written contract with a person who comes within one of the exemptions in division (B) of this section, if liability for all transactions with purchasers is assumed by the person so exempted. 33182
33183
33184
33185

(7) "Telephone solicitation" means a communication to a person that meets both of the following criteria: 33186
33187

(a) The communication is initiated by or on behalf of a telephone solicitor or by a salesperson. 33188
33189

(b) The communication either represents a price or the quality or availability of goods or services or is used to induce the person to purchase goods or services, including, but not limited to, inducement through the offering of a gift, award, or prize. 33190
33191
33192
33193
33194

(8) "Telephone solicitor" means a person that engages in telephone solicitation directly or through one or more salespersons either from a location in this state, or from a location outside this state to persons in this state. "Telephone solicitor" includes, but is not limited to, any such person that is an owner, operator, officer, or director of, partner in, or other individual engaged in the management activities of, a 33195
33196
33197
33198
33199
33200
33201

business. 33202

(B) A telephone solicitor is exempt from the provisions of 33203
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 33204
Code if the telephone solicitor is any one of the following: 33205

(1) A person engaging in a telephone solicitation that is a 33206
one-time or infrequent transaction not done in the course of a 33207
pattern of repeated transactions of a like nature; 33208

(2) A person engaged in telephone solicitation solely for 33209
religious or political purposes; a charitable organization, 33210
fund-raising counsel, or professional solicitor in compliance with 33211
the registration and reporting requirements of Chapter 1716. of 33212
the Revised Code; or any person or other entity exempt under 33213
section 1716.03 of the Revised Code from filing a registration 33214
statement under section 1716.02 of the Revised Code; 33215

(3) A person, making a telephone solicitation involving a 33216
home solicitation sale as defined in section 1345.21 of the 33217
Revised Code, that makes the sales presentation and completes the 33218
sale at a later, face-to-face meeting between the seller and the 33219
purchaser rather than during the telephone solicitation. However, 33220
if the person, following the telephone solicitation, causes 33221
another person to collect the payment of any money, this exemption 33222
does not apply. 33223

(4) A licensed securities, commodities, or investment broker, 33224
dealer, investment advisor, or associated person when making a 33225
telephone solicitation within the scope of the person's license. 33226
As used in division (B)(4) of this section, "licensed securities, 33227
commodities, or investment broker, dealer, investment advisor, or 33228
associated person" means a person subject to licensure or 33229
registration as such by the securities and exchange commission; 33230
the National Association of Securities Dealers or other 33231
self-regulatory organization, as defined by 15 U.S.C.A. 78c; by 33232

the division of securities under Chapter 1707. of the Revised 33233
Code; or by an official or agency of any other state of the United 33234
States. 33235

(5)(a) A person primarily engaged in soliciting the sale of a 33236
newspaper of general circulation; 33237

(b) As used in division (B)(5)(a) of this section, "newspaper 33238
of general circulation" includes, but is not limited to, both of 33239
the following: 33240

(i) A newspaper that is a daily law journal designated as an 33241
official publisher of court calendars pursuant to section 2701.09 33242
of the Revised Code; 33243

(ii) A newspaper or publication that has at least twenty-five 33244
per cent editorial, non-advertising content, exclusive of inserts, 33245
measured relative to total publication space, and an audited 33246
circulation to at least fifty per cent of the households in the 33247
newspaper's retail trade zone as defined by the audit. 33248

(6)(a) An issuer, or its subsidiary, that has a class of 33249
securities to which all of the following apply: 33250

(i) The class of securities is subject to section 12 of the 33251
"Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is 33252
registered or is exempt from registration under 15 U.S.C.A. 33253
781(g)(2)(A), (B), (C), (E), (F), (G), or (H); 33254

(ii) The class of securities is listed on the New York stock 33255
exchange, the American stock exchange, or the NASDAQ national 33256
market system; 33257

(iii) The class of securities is a reported security as 33258
defined in 17 C.F.R. 240.11Aa3-1(a)(4). 33259

(b) An issuer, or its subsidiary, that formerly had a class 33260
of securities that met the criteria set forth in division 33261
(B)(6)(a) of this section if the issuer, or its subsidiary, has a 33262

net worth in excess of one hundred million dollars, files or its 33263
parent files with the securities and exchange commission an S.E.C. 33264
form 10-K, and has continued in substantially the same business 33265
since it had a class of securities that met the criteria in 33266
division (B)(6)(a) of this section. As used in division (B)(6)(b) 33267
of this section, "issuer" and "subsidiary" include the successor 33268
to an issuer or subsidiary. 33269

(7) A person soliciting a transaction regulated by the 33270
commodity futures trading commission, if the person is registered 33271
or temporarily registered for that activity with the commission 33272
under 7 U.S.C.A. 1 et. seq. and the registration or temporary 33273
registration has not expired or been suspended or revoked; 33274

(8) A person soliciting the sale of any book, record, audio 33275
tape, compact disc, or video, if the person allows the purchaser 33276
to review the merchandise for at least seven days and provides a 33277
full refund within thirty days to a purchaser who returns the 33278
merchandise or if the person solicits the sale on behalf of a 33279
membership club operating in compliance with regulations adopted 33280
by the federal trade commission in 16 C.F.R. 425; 33281

(9) A supervised financial institution or its subsidiary. As 33282
used in division (B)(9) of this section, "supervised financial 33283
institution" means a bank, trust company, savings and loan 33284
association, savings bank, credit union, industrial loan company, 33285
consumer finance lender, commercial finance lender, or institution 33286
described in section 2(c)(2)(F) of the "Bank Holding Company Act 33287
of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an 33288
official or agency of the United States, this state, or any other 33289
state of the United States; or a licensee or registrant under 33290
sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 33291
1321.83 of the Revised Code. 33292

(10)(a) An insurance company, association, or other 33293
organization that is licensed or authorized to conduct business in 33294

this state by the superintendent of insurance pursuant to Title 33295
XXXIX of the Revised Code or Chapter 1751. of the Revised Code, 33296
when soliciting within the scope of its license or authorization. 33297

(b) A licensed insurance broker, agent, or solicitor when 33298
soliciting within the scope of the person's license. As used in 33299
division (B)(10)(b) of this section, "licensed insurance broker, 33300
agent, or solicitor" means any person licensed as an insurance 33301
broker, agent, or solicitor by the superintendent of insurance 33302
pursuant to Title XXXIX of the Revised Code. 33303

(11) A person soliciting the sale of services provided by a 33304
cable television system operating under authority of a 33305
governmental franchise or permit; 33306

(12) A person soliciting a business-to-business sale under 33307
which any of the following conditions are met: 33308

(a) The telephone solicitor has been operating continuously 33309
for at least three years under the same business name under which 33310
it solicits purchasers, and at least fifty-one per cent of its 33311
gross dollar volume of sales consists of repeat sales to existing 33312
customers to whom it has made sales under the same business name. 33313

(b) The purchaser business intends to resell the goods 33314
purchased. 33315

(c) The purchaser business intends to use the goods or 33316
services purchased in a recycling, reuse, manufacturing, or 33317
remanufacturing process. 33318

(d) The telephone solicitor is a publisher of a periodical or 33319
of magazines distributed as controlled circulation publications as 33320
defined in division (CC) of section 5739.01 of the Revised Code 33321
and is soliciting sales of advertising, subscriptions, reprints, 33322
lists, information databases, conference participation or 33323
sponsorships, trade shows or media products related to the 33324
periodical or magazine, or other publishing services provided by 33325

the controlled circulation publication. 33326

(13) A person that, not less often than once each year, 33327
publishes and delivers to potential purchasers a catalog that 33328
complies with both of the following: 33329

(a) It includes all of the following: 33330

(i) The business address of the seller; 33331

(ii) A written description or illustration of each good or 33332
service offered for sale; 33333

(iii) A clear and conspicuous disclosure of the sale price of 33334
each good or service; shipping, handling, and other charges; and 33335
return policy; 33336

(b) One of the following applies: 33337

(i) The catalog includes at least twenty-four pages of 33338
written material and illustrations, is distributed in more than 33339
one state, and has an annual postage-paid mail circulation of not 33340
less than two hundred fifty thousand households; 33341

(ii) The catalog includes at least ten pages of written 33342
material or an equivalent amount of material in electronic form on 33343
the internet or an on-line computer service, the person does not 33344
solicit customers by telephone but solely receives telephone calls 33345
made in response to the catalog, and during the calls the person 33346
takes orders but does not engage in further solicitation of the 33347
purchaser. As used in division (B)(13)(b)(ii) of this section, 33348
"further solicitation" does not include providing the purchaser 33349
with information about, or attempting to sell, any other item in 33350
the catalog that prompted the purchaser's call or in a 33351
substantially similar catalog issued by the seller. 33352

(14) A political subdivision or instrumentality of the United 33353
States, this state, or any state of the United States; 33354

(15) A college or university or any other public or private 33355

institution of higher education in this state; 33356

(16) A public utility as defined in section 4905.02 of the 33357
Revised Code or a retail natural gas supplier as defined in 33358
section 4929.01 of the Revised Code, if the utility or supplier is 33359
subject to regulation by the public utilities commission, or the 33360
affiliate of the utility or supplier; 33361

~~(17) A travel agency or tour promoter that is registered in 33362
compliance with section 1333.96 of the Revised Code when 33363
soliciting within the scope of the agency's or promoter's 33364
registration; 33365~~

~~(18) A person that solicits sales through a television 33366
program or advertisement that is presented in the same market area 33367
no fewer than twenty days per month or offers for sale no fewer 33368
than ten distinct items of goods or services; and offers to the 33369
purchaser an unconditional right to return any good or service 33370
purchased within a period of at least seven days and to receive a 33371
full refund within thirty days after the purchaser returns the 33372
good or cancels the service; 33373~~

~~(19)(18)(a) A person that, for at least one year, has been 33374
operating a retail business under the same name as that used in 33375
connection with telephone solicitation and both of the following 33376
occur on a continuing basis: 33377~~

~~(i) The person either displays goods and offers them for 33378
retail sale at the person's business premises or offers services 33379
for sale and provides them at the person's business premises. 33380~~

~~(ii) At least fifty-one per cent of the person's gross dollar 33381
volume of retail sales involves purchases of goods or services at 33382
the person's business premises. 33383~~

~~(b) An affiliate of a person that meets the requirements in 33384
division (B)~~(19)(18)(a)~~ of this section if the affiliate meets all 33385
of the following requirements: 33386~~

(i) The affiliate has operated a retail business for a period of less than one year; 33387
33388

(ii) The affiliate either displays goods and offers them for retail sale at the affiliate's business premises or offers services for sale and provides them at the affiliate's business premises; 33389
33390
33391
33392

(iii) At least fifty-one per cent of the affiliate's gross dollar volume of retail sales involves purchases of goods or services at the affiliate's business premises. 33393
33394
33395

(c) A person that, for a period of less than one year, has been operating a retail business in this state under the same name as that used in connection with telephone solicitation, as long as all of the following requirements are met: 33396
33397
33398
33399

(i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises; 33400
33401
33402

(ii) The goods or services that are the subject of telephone solicitation are sold at the person's business premises, and at least sixty-five per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises; 33403
33404
33405
33406
33407

(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310. 33408
33409
33410
33411

~~(20)~~(19) A person who performs telephone solicitation sales services on behalf of other persons and to whom one of the following applies: 33412
33413
33414

(a) The person has operated under the same ownership, control, and business name for at least five years, and the person 33415
33416

receives at least seventy-five per cent of its gross revenues from 33417
written telephone solicitation contracts with persons who come 33418
within one of the exemptions in division (B) of this section. 33419

(b) The person is an affiliate of one or more exempt persons 33420
and makes telephone solicitations on behalf of only the exempt 33421
persons of which it is an affiliate. 33422

(c) The person makes telephone solicitations on behalf of 33423
only exempt persons, the person and each exempt person on whose 33424
behalf telephone solicitations are made have entered into a 33425
written contract that specifies the manner in which the telephone 33426
solicitations are to be conducted and that at a minimum requires 33427
compliance with the telemarketing sales rule adopted by the 33428
federal trade commission in 16 C.F.R. part 310, and the person 33429
conducts the telephone solicitations in the manner specified in 33430
the written contract. 33431

(d) The person performs telephone solicitation for religious 33432
or political purposes, a charitable organization, a fund-raising 33433
council, or a professional solicitor in compliance with the 33434
registration and reporting requirements of Chapter 1716. of the 33435
Revised Code; and meets all of the following requirements: 33436

(i) The person has operated under the same ownership, 33437
control, and business name for at least five years, and the person 33438
receives at least fifty-one per cent of its gross revenues from 33439
written telephone solicitation contracts with persons who come 33440
within the exemption in division (B)(2) of this section; 33441

(ii) The person does not conduct a prize promotion or offer 33442
the sale of an investment opportunity; and 33443

(iii) The person conducts all telephone solicitation 33444
activities according to sections 310.3, 310.4, and 310.5 of the 33445
telemarketing sales rules adopted by the federal trade commission 33446
in 16 C.F.R. part 310. 33447

~~(21)~~(20) A person that is a licensed real estate salesperson 33448
or broker under Chapter 4735. of the Revised Code when soliciting 33449
within the scope of the person's license; 33450

~~(22)~~(21)(a) Either of the following: 33451

(i) A publisher that solicits the sale of the publisher's 33452
periodical or magazine of general, paid circulation, or a person 33453
that solicits a sale of that nature on behalf of a publisher under 33454
a written agreement directly between the publisher and the person. 33455

(ii) A publisher that solicits the sale of the publisher's 33456
periodical or magazine of general, paid circulation, or a person 33457
that solicits a sale of that nature as authorized by a publisher 33458
under a written agreement directly with a publisher's 33459
clearinghouse provided the person is a resident of Ohio for more 33460
than three years and initiates all telephone solicitations from 33461
Ohio and the person conducts the solicitation and sale in 33462
compliance with 16 C.F.R. Part 310, as adopted by the federal 33463
trade commission. 33464

(b) As used in division (B)~~(22)~~(21) of this section, 33465
"periodical or magazine of general, paid circulation" excludes a 33466
periodical or magazine circulated only as part of a membership 33467
package or given as a free gift or prize from the publisher or 33468
person. 33469

~~(23)~~(22) A person that solicits the sale of food, as defined 33470
in section 3715.01 of the Revised Code, or the sale of products of 33471
horticulture, as defined in section 5739.01 of the Revised Code, 33472
if the person does not intend the solicitation to result in, or 33473
the solicitation actually does not result in, a sale that costs 33474
the purchaser an amount greater than five hundred dollars. 33475

~~(24)~~(23) A funeral director licensed pursuant to Chapter 33476
4717. of the Revised Code when soliciting within the scope of that 33477
license, if both of the following apply: 33478

(a) The solicitation and sale are conducted in compliance with 16 C.F.R. part 453, as adopted by the federal trade commission, and with sections 1107.33 and 1345.21 to 1345.28 of the Revised Code;	33479 33480 33481 33482
(b) The person provides to the purchaser of any preneed funeral contract a notice that clearly and conspicuously sets forth the cancellation rights specified in division (G) of section 1107.33 of the Revised Code, and retains a copy of the notice signed by the purchaser.	33483 33484 33485 33486 33487
(25) (24) A person, or affiliate thereof, licensed to sell or issue Ohio instruments designated as travelers checks pursuant to sections 1315.01 to 1315.11 of the Revised Code.	33488 33489 33490
(26) (25) A person that solicits sales from its previous purchasers and meets all of the following requirements:	33491 33492
(a) The solicitation is made under the same business name that was previously used to sell goods or services to the purchaser;	33493 33494 33495
(b) The person has, for a period of not less than three years, operated a business under the same business name as that used in connection with telephone solicitation;	33496 33497 33498
(c) The person does not conduct a prize promotion or offer the sale of an investment opportunity;	33499 33500
(d) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310;	33501 33502 33503 33504
(e) Neither the person nor any of its principals has been convicted of, pleaded guilty to, or has entered a plea of no contest for a felony or a theft offense as defined in sections 2901.02 and 2913.01 of the Revised Code or similar law of another	33505 33506 33507 33508

state or of the United States; 33509

(f) Neither the person nor any of its principals has had 33510
entered against them an injunction or a final judgment or order, 33511
including an agreed judgment or order, an assurance of voluntary 33512
compliance, or any similar instrument, in any civil or 33513
administrative action involving engaging in a pattern of corrupt 33514
practices, fraud, theft, embezzlement, fraudulent conversion, or 33515
misappropriation of property; the use of any untrue, deceptive, or 33516
misleading representation; or the use of any unfair, unlawful, 33517
deceptive, or unconscionable trade act or practice. 33518

~~(27)~~(26) An institution defined as a home health agency in 33519
section 3701.88 of the Revised Code, that conducts all telephone 33520
solicitation activities according to sections 310.3, 310.4, and 33521
310.5 of the telemarketing sales rules adopted by the federal 33522
trade commission in 16 C.F.R. part 310, and engages in telephone 33523
solicitation only within the scope of the institution's 33524
certification, accreditation, contract with the department of 33525
aging, or status as a home health agency; and that meets one of 33526
the following requirements: 33527

(a) The institution is certified as a provider of home health 33528
services under Title XVIII of the Social Security Act, 49 Stat. 33529
620, 42 U.S.C. 301, as amended; and is registered with the 33530
department of health pursuant to division (B) of section 3701.88 33531
of the Revised Code; 33532

(b) The institution is accredited by either the joint 33533
commission on accreditation of health care organizations or the 33534
community health accreditation program; 33535

(c) The institution is providing passport services under the 33536
direction of the Ohio department of aging under section 173.40 of 33537
the Revised Code; 33538

(d) An affiliate of an institution that meets the 33539

requirements of division (B)~~(27)~~(26)(a), (b), or (c) of this 33540
section when offering for sale substantially the same goods and 33541
services as those that are offered by the institution that meets 33542
the requirements of division (B)~~(27)~~(26)(a), (b), or (c) of this 33543
section. 33544

~~(28)~~(27) A person licensed to provide a hospice care program 33545
by the department of health pursuant to section 3712.04 of the 33546
Revised Code when conducting telephone solicitations within the 33547
scope of the person's license and according to sections 310.3, 33548
310.4, and 310.5 of the telemarketing sales rules adopted by the 33549
federal trade commission in 16 C.F.R. part 310. 33550

Sec. 4723.06. (A) The board of nursing shall: 33551

(1) Administer and enforce the provisions of this chapter, 33552
including the taking of disciplinary action for violations of 33553
section 4723.28 of the Revised Code, any other provisions of this 33554
chapter, or rules adopted under this chapter; 33555

(2) Develop criteria that an applicant must meet to be 33556
eligible to sit for the examination for licensure to practice as a 33557
registered nurse or as a licensed practical nurse; 33558

(3) Issue and renew nursing licenses and dialysis technician 33559
certificates, as provided in this chapter; 33560

(4) Define the minimum curricula and standards for 33561
educational programs of the schools of professional nursing and 33562
schools of practical nursing in this state; 33563

(5) Survey, inspect, and grant full approval to prelicensure 33564
nursing education programs that meet the standards established by 33565
rules adopted under section 4723.07 of the Revised Code. 33566
Prelicensure nursing education programs include, but are not 33567
limited to, associate degree, baccalaureate degree, diploma, and 33568
doctor of nursing programs leading to initial licensure to 33569

practice nursing as a registered nurse and practical nurse 33570
programs leading to initial licensure to practice nursing as a 33571
licensed practical nurse. 33572

(6) Grant conditional approval, by a vote of a quorum of the 33573
board, to a new prelicensure nursing education program or a 33574
program that is being reestablished after having ceased to 33575
operate, if the program meets and maintains the minimum standards 33576
of the board established by rules adopted under section 4723.07 of 33577
the Revised Code. If the board does not grant conditional 33578
approval, it shall hold an adjudication under Chapter 119. of the 33579
Revised Code to consider conditional approval of the program. If 33580
the board grants conditional approval, at its first meeting after 33581
the first class has completed the program, the board shall 33582
determine whether to grant full approval to the program. If the 33583
board does not grant full approval or if it appears that the 33584
program has failed to meet and maintain standards established by 33585
rules adopted under section 4723.07 of the Revised Code, the board 33586
shall hold an adjudication under Chapter 119. of the Revised Code 33587
to consider the program. Based on results of the adjudication, the 33588
board may continue or withdraw conditional approval, or grant full 33589
approval. 33590

(7) Place on provisional approval, for a period of time 33591
specified by the board, a program that has ceased to meet and 33592
maintain the minimum standards of the board established by rules 33593
adopted under section 4723.07 of the Revised Code. At the end of 33594
the period, the board shall reconsider whether the program meets 33595
the standards and shall grant full approval if it does. If it does 33596
not, the board may withdraw approval, pursuant to an adjudication 33597
under Chapter 119. of the Revised Code. 33598

(8) Approve continuing nursing education programs and courses 33599
under standards established in rules adopted under section 4723.07 33600
of the Revised Code; 33601

- (9) Approve peer support programs, under rules adopted under section 4723.07 of the Revised Code, for nurses and for dialysis technicians; 33602
33603
33604
- (10) Establish a program for monitoring chemical dependency in accordance with section 4723.35 of the Revised Code; 33605
33606
- (11) Establish the practice intervention and improvement program in accordance with section 4723.282 of the Revised Code; 33607
33608
- (12) Issue and renew certificates of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner; 33609
33610
33611
33612
- (13) Approve under section 4723.46 of the Revised Code national certifying organizations for examination and certification of certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners; 33613
33614
33615
33616
33617
- (14) Issue and renew certificates to prescribe in accordance with sections 4723.48 and 4723.485 of the Revised Code; 33618
33619
- (15) Grant approval to the planned classroom and clinical study required by section 4723.483 of the Revised Code to be eligible for a certificate to prescribe; 33620
33621
33622
- (16) Make an annual edition of the formulary established in rules adopted under section 4723.50 of the Revised Code available to the public either in printed form or by electronic means and, as soon as possible after any revision of the formulary becomes effective, make the revision available to the public in printed form or by electronic means; 33623
33624
33625
33626
33627
33628
- (17) Provide guidance and make recommendations to the general assembly, the governor, state agencies, and the federal government with respect to the regulation of the practice of nursing and the 33629
33630
33631

enforcement of this chapter;	33632
(18) Make an annual report to the governor, which shall be open for public inspection;	33633 33634
(19) Maintain and have open for public inspection the following records:	33635 33636
(a) A record of all its meetings and proceedings;	33637
(b) A file of holders of nursing licenses, registrations, and certificates granted under this chapter and dialysis technician certificates granted under this chapter. The file shall be maintained in the form prescribed by rule of the board.	33638 33639 33640 33641
(c) A list of prelicensure nursing education programs approved by the board;	33642 33643
(d) A list of approved peer support programs for nurses and dialysis technicians.	33644 33645
(B) The board may fulfill the requirement of division (A)(8) of this section by authorizing persons who meet the standards established in rules adopted under section 4723.07 of the Revised Code to approve continuing nursing education programs and courses. Persons so authorized shall approve continuing nursing education programs and courses in accordance with standards established in rules adopted under section 4723.07 of the Revised Code.	33646 33647 33648 33649 33650 33651 33652
Persons seeking authorization to approve continuing nursing education programs and courses shall apply to the board and pay the appropriate fee established under section 4723.08 of the Revised Code. Authorizations to approve continuing nursing education programs and courses shall expire, and may be renewed according to the schedule established in rules adopted under section 4732.07 of the Revised Code.	33653 33654 33655 33656 33657 33658 33659
<u>In addition to approving continuing nursing education programs under division (A)(8) of this section, the board may</u>	33660 33661

sponsor continuing education activities. 33662

Sec. 4723.08. (A) The board of nursing may impose fees not to 33663
exceed the following limits: 33664

(1) For application for licensure by examination to practice 33665
nursing as a registered nurse or as a licensed practical nurse, 33666
~~fifty~~ seventy-five dollars; 33667

(2) For application for licensure by endorsement to practice 33668
nursing as a registered nurse or as a licensed practical nurse, 33669
~~fifty~~ seventy-five dollars; 33670

(3) For application for a certificate of authority to 33671
practice nursing as a certified registered nurse anesthetist, 33672
clinical nurse specialist, certified nurse-midwife, or certified 33673
nurse practitioner, one hundred dollars; 33674

(4) For application for a temporary dialysis technician 33675
certificate, the amount specified in rules adopted under section 33676
4723.79 of the Revised Code; 33677

(5) For application for a full dialysis technician 33678
certificate, the amount specified in rules adopted under section 33679
4723.79 of the Revised Code; 33680

(6) For application for a certificate to prescribe, fifty 33681
dollars; 33682

(7) For verification of a nursing license, certificate of 33683
authority, or dialysis technician certificate to another 33684
jurisdiction, fifteen dollars; 33685

(8) For providing a replacement copy of a nursing license, 33686
certificate of authority, ~~or certificate to prescribe,~~ dialysis 33687
technician certificate, ~~fifteen~~ intravenous therapy card, or 33688
frameable certificate, twenty-five dollars; 33689

(9) For biennial renewal of a nursing license that expires on 33690

or ~~before~~ after August 31, 2003, ~~thirty-five~~ but before August 31, 33691
2004, forty-five dollars; 33692

(10) For biennial renewal of a nursing license that expires 33693
on or after ~~September 1, 2003,~~ forty-five August 31, 2004, 33694
sixty-five dollars; 33695

(11) For biennial renewal of a certificate of authority to 33696
practice nursing as a certified registered nurse anesthetist, 33697
clinical nurse specialist, certified nurse mid-wife, or certified 33698
nurse practitioner that expires on or before August 31, 2005, one 33699
hundred dollars; 33700

(12) For biennial renewal of a certificate of authority to 33701
practice nursing as a certified registered nurse anesthetist, 33702
clinical nurse specialist, certified nurse-midwife, or certified 33703
nurse practitioner that expires on or after September 1, 2005, 33704
eighty-five dollars; 33705

(13) For renewal of a certificate to prescribe, fifty 33706
dollars; 33707

(14) For biennial renewal of a dialysis technician 33708
certificate, the amount specified in rules adopted under section 33709
4723.79 of the Revised Code; 33710

(15) For processing a late application for renewal of a 33711
nursing license, certificate of authority, or dialysis technician 33712
certificate, fifty dollars; 33713

(16) For application for authorization to approve continuing 33714
nursing education programs and courses from an applicant 33715
accredited by a national accreditation system for nursing, five 33716
hundred dollars; 33717

(17) For application for authorization to approve continuing 33718
nursing education programs and courses from an applicant not 33719
accredited by a national accreditation system for nursing, one 33720

thousand dollars;	33721
(18) For each year for which authorization to approve continuing nursing education programs and courses is renewed, one hundred fifty dollars;	33722 33723 33724
(19) For application for approval to operate a dialysis training program, the amount specified in rules adopted under section 4723.79 of the Revised Code;	33725 33726 33727
(20) For reinstatement of a lapsed nursing license, certificate of authority, or dialysis technician certificate, one hundred dollars;	33728 33729 33730
(21) For written verification of a nursing license, certificate of authority, or dialysis technician certificate, other than verification to another jurisdiction, five dollars. The board may contract for services pertaining to this verification process and the collection of the fee, and may permit the contractor to retain a portion of the fees as compensation, before any amounts are deposited into the state treasury.	33731 33732 33733 33734 33735 33736 33737
(22) For processing a check returned to the board by a financial institution as noncollectible, twenty-five dollars;	33738 33739
<u>(23) For issuance of an intravenous therapy card to an individual authorized under section 4723.17 of the Revised Code to provide intravenous therapy, twenty-five dollars;</u>	33740 33741 33742
<u>(24) For out-of-state survey visits of nursing education programs operating in Ohio, two thousand dollars.</u>	33743 33744
(B) Each quarter, for purposes of transferring funds under section 4743.05 of the Revised Code to the nurse education assistance fund created in section 3333.28 of the Revised Code, the board of nursing shall certify to the director of budget and management the number of biennial licenses renewed under this chapter during the preceding quarter and the amount equal to that	33745 33746 33747 33748 33749 33750

number times five dollars. 33751

(C) The board may charge a participant in a board-sponsored continuing education activity an amount not exceeding fifteen dollars for each activity. 33752
33753
33754

Sec. 4723.082. ~~All~~ (A) Except as provided in section 4723.062 of the Revised Code and division (B) of this section, all receipts of the board of nursing, from any source, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. ~~All~~ 33755
33756
33757
33758
33759

(B) All receipts from board-sponsored continuing education activities shall be deposited in the state treasury to the credit of the special nursing issue fund created by section 4723.062 of the Revised Code. 33760
33761
33762
33763

(C) All vouchers of the board shall be approved by the board president or executive director, or both, as authorized by the board. 33764
33765
33766

Sec. 4725.44. (A) The Ohio optical dispensers board shall be responsible for the administration of sections 4725.40 to 4725.59 of the Revised Code and, in particular, shall process applications for licensure as licensed dispensing opticians and licensed ocularists; schedule, administer, and supervise the qualifying examinations for licensure or contract with a testing service to schedule, administer, and supervise the qualifying examination for licensure; issue licenses to qualified individuals; revoke and suspend licenses; and maintain adequate records with respect to its operations and responsibilities. 33767
33768
33769
33770
33771
33772
33773
33774
33775
33776

(B) The board shall adopt, amend, or rescind rules, ~~pursuant to Chapter 119. of the Revised Code,~~ for the licensure of dispensing opticians, and ocularists and such other rules as are required by or necessary to carry out the responsibilities imposed 33777
33778
33779
33780

by sections 4725.40 to 4725.59 of the Revised Code. In the rules, 33781
the board shall specify the amount to be charged for each type of 33782
fee established under sections 4725.40 to 4725.59 of the Revised 33783
Code. All rule-making actions of the board shall be taken in 33784
accordance with Chapter 119. of the Revised Code. 33785

(C) The board shall have no authority to adopt rules 33786
governing the employment of dispensing opticians, the location or 33787
number of optical stores, advertising of optical products or 33788
services, or the manner in which such products can be displayed. 33789

Sec. 4725.45. (A) The Ohio optical dispensers board shall 33790
employ an executive secretary-treasurer, who shall serve at the 33791
pleasure of the board. Before entering upon the discharge of the 33792
duties imposed upon the executive secretary-treasurer by sections 33793
4725.40 to 4725.59 of the Revised Code or by the board, the 33794
executive secretary-treasurer shall give a bond, with sufficient 33795
sureties, in an amount to be determined by the board for the 33796
faithful discharge of the duties of the office of executive 33797
secretary-treasurer. The premium for such bond shall be paid as 33798
are other expenditures of the board. Such bond, with the approval 33799
of the board and oath of office endorsed thereon, shall be 33800
deposited with the secretary of state and kept in the secretary of 33801
state's office. 33802

(B) The executive secretary-treasurer shall perform such 33803
duties as are prescribed by the board. 33804

(C) The board may employ such additional employees as may be 33805
necessary for the administration and enforcement of sections 33806
4725.40 to 4725.59 of the Revised Code. 33807

(D) All receipts of the board shall be deposited in the state 33808
treasury to the credit of the occupational licensing and 33809
regulatory fund. All vouchers of the board shall be approved by 33810
the president of the board and the executive secretary-treasurer. 33811

(E) The board, subject to the approval of the controlling board, may establish ~~examination and license renewal~~ fees in excess of the amounts ~~provided~~ specified in ~~sections 4725.48, 4725.49, and 4725.51 of the Revised Code~~ rules adopted by the board, provided that such fees do not exceed those amounts by more than fifty per cent.

Sec. 4725.48. (A) Any person who desires to engage in optical dispensing, except as provided in section 4725.47 of the Revised Code, shall file a properly completed written application for an examination with the Ohio optical dispensers board or with the testing service the board has contracted with pursuant to section 4725.49 of the Revised Code. The application for examination shall be made on a form provided by the board or testing service and shall be accompanied by ~~an~~ the examination fee specified in rules adopted by the board ~~shall establish by rule~~. Applicants must return the application to the board or testing service at least sixty days prior to the date the examination is scheduled to be administered.

(B) Except as provided in section 4725.47 of the Revised Code, any person who desires to engage in optical dispensing shall file with the board a properly completed written application for a license ~~with the board with~~. The application shall be accompanied by the appropriate license fee as set forth under section 4725.50 of the Revised Code specified in rules adopted by the board.

No person shall be eligible to apply for a license under this division, unless the person is at least eighteen years of age, is of good moral character, is free of contagious or infectious disease, has received a passing score, as determined by the board, on the examination administered under division (A) of this section, is a graduate of an accredited high school of any state, or has received an equivalent education and has successfully

completed either of the following: 33843

(1) Two years of supervised experience under a licensed 33844
dispensing optician, optometrist, or physician engaged in the 33845
practice of ophthalmology, up to one year of which may be 33846
continuous experience of not less than thirty hours a week in an 33847
optical laboratory; 33848

(2) A two-year college level program in optical dispensing 33849
that has been approved by the board and that includes, but is not 33850
limited to, courses of study in mathematics, science, English, 33851
anatomy and physiology of the eye, applied optics, ophthalmic 33852
optics, measurement and inspection of lenses, lens grinding and 33853
edging, ophthalmic lens design, keratometry, and the fitting and 33854
adjusting of spectacle lenses and frames and contact lenses, 33855
including methods of fitting contact lenses and post-fitting care. 33856

(C) Any person who desires to obtain a license to practice as 33857
an ocularist shall file a properly completed written application 33858
with the board accompanied by the ~~appropriate~~ application fee 33859
specified in rules adopted by the board and proof that the 33860
applicant has met the requirements for licensure. The board shall 33861
establish, by rule, ~~the application fee and~~ the minimum 33862
requirements for licensure, including education, examination, or 33863
experience standards recognized by the board as national standards 33864
for ocularists. The board shall issue a license to practice as an 33865
ocularist to an applicant who satisfies the requirements of this 33866
division and the board's rules ~~adopted pursuant to this division~~ 33867
for licensure of ocularists. 33868

Sec. 4725.50. (A) Except for a person who qualifies for 33869
licensure as an ocularist, each person who qualifies for licensure 33870
under sections 4725.40 to 4725.59 of the Revised Code shall 33871
receive from the Ohio optical dispensers board, under its seal, a 33872
certificate of licensure entitling ~~him~~ the person to practice as a 33873

licensed spectacle dispensing optician, licensed contact lens 33874
dispensing optician, or a licensed spectacle-contact lens 33875
dispensing optician. The appropriate certificate of licensure 33876
shall be issued by the board no later than sixty days after it has 33877
notified the applicant of ~~his~~ the applicant's approval for 33878
licensure. 33879

~~(B) The licensure fee shall be fifty dollars for applications 33880
submitted in January through March; thirty seven dollars and fifty 33881
cents, in April through June; twenty five dollars, in July through 33882
September; and twelve dollars and fifty cents, in October through 33883
December. 33884~~

~~(C) Each licensed dispensing optician shall display his~~ the 33885
licensed dispensing optician's certificate of licensure in a 33886
conspicuous place in ~~his~~ the licensed dispensing optician's office 33887
or place of business. If a licensed dispensing optician maintains 33888
more than one office or place of business, ~~he~~ the licensed 33889
dispensing optician shall display a duplicate copy of such 33890
certificate at each location. The board shall issue duplicate 33891
copies of the appropriate certificate of licensure for this 33892
purpose upon the filing of an application form therefor and the 33893
payment of ~~a five dollar~~ the fee for each duplicate copy specified 33894
in rules adopted by the board. 33895

Sec. 4725.51. (A) Each license issued under sections 4725.40 33896
to 4725.59 of the Revised Code shall expire on the first day of 33897
January in the year after it was issued. Each person holding a 33898
valid, current license may apply to the Ohio optical dispensers 33899
board for the extension of the license under the standard renewal 33900
procedures of Chapter 4745. of the Revised Code. Each application 33901
for renewal shall be accompanied by a the renewal fee specified in 33902
rules adopted by the board ~~shall establish by rule~~ and shall 33903
contain evidence that the applicant has completed a continuing 33904

education program within the immediately preceding one-year period 33905
as follows: 33906

(1) Licensed spectacle dispensing opticians shall have 33907
pursued four hours of study in spectacle dispensing, approved by 33908
the board; 33909

(2) Licensed contact lens dispensing opticians shall have 33910
pursued eight hours of study in contact lens dispensing, approved 33911
by the board. 33912

(3) Licensed spectacle-contact lens dispensing opticians 33913
shall have pursued courses of study under divisions (A)(1) and (2) 33914
of this section. 33915

(4) Licensed ocularists shall have pursued courses of study 33916
as prescribed by rule of the board. 33917

(B) No person who fails to renew ~~his~~ the person's license 33918
under division (A) of this section shall be required to take a 33919
qualifying examination under section 4725.48 of the Revised Code 33920
as a condition of renewal, provided that the application for 33921
renewal and proof of the requisite continuing education hours are 33922
submitted within ninety days from the date the license expired and 33923
the applicant pays the annual renewal fee and ~~a penalty of~~ 33924
~~seventy five dollars~~ the late renewal fee specified in rules 33925
adopted by the board. The board may provide, by rule, for an 33926
extension of the grace period for licensed dispensing opticians 33927
who are serving in the armed forces of the United States and for 33928
waiver of the continuing education requirements or the penalty in 33929
cases of hardship or illness. 33930

(C) The board shall approve continuing education programs and 33931
shall adopt rules as necessary for approving the programs. 33932
Approved programs shall be scheduled, sponsored, and conducted in 33933
accordance with the board's rules. 33934

Sec. 4725.52. Any licensed dispensing optician may supervise 33935
a maximum of three apprentices who shall be permitted to engage in 33936
optical dispensing only under the supervision of the licensed 33937
dispensing optician. 33938

A person serving as an apprentice shall register annually 33939
with the Ohio optical dispensers board either on a form provided 33940
by the board or in the form of a statement giving the name and 33941
address of the supervising licensed dispensing optician, the 33942
location at which the apprentice will be employed, and any other 33943
information required by the board. Each registrant shall pay a the 33944
registration fee of ten dollars specified in rules adopted by the 33945
board. 33946

A person who is gaining experience under the supervision of a 33947
licensed optometrist or ophthalmologist that would qualify ~~him~~ the 33948
person under division (B)(1) of section 4725.48 of the Revised 33949
Code to take the examination for optical dispensing is not 33950
required to register with the board. 33951

Sec. 4725.57. An applicant for licensure as a licensed 33952
dispensing optician who is licensed or registered in another state 33953
shall be accorded the full privileges of practice within this 33954
state, upon the payment of a ~~seventy five dollar~~ the license 33955
endorsement fee specified in rules adopted by the board and the 33956
submission of a certified copy of the license or certificate 33957
issued by such other state, without the necessity of examination, 33958
if the board determines that the applicant meets the ~~criteria of~~ 33959
~~division (A) of section 4725.48 of the Revised Code and further~~ 33960
~~determines that the educational background or experience of the~~ 33961
~~applicant satisfies the same requirements of~~ that must be met to 33962
be eligible to apply for a license under division (B) of section 33963
4725.48 of the Revised Code. 33964

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code:

(A)(1) "Clinical laboratory services" means either of the following:

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health;

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.

(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens.

(B) "Designated health services" means any of the following:

(1) Clinical laboratory services;

(2) Home health care services;

(3) Outpatient prescription drugs.

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:

(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;

(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee.

(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal

government, this state, or a political subdivision of this state, 33993
including the medicare program established under Title XVIII of 33994
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 33995
as amended, health care coverage for public employees, health care 33996
benefits administered by the bureau of workers' compensation, the 33997
medical assistance program established under Chapter 5111. of the 33998
Revised Code, and the disability ~~assistance~~ medical assistance 33999
program established under Chapter 5115. of the Revised Code. 34000

(E)(1) "Group practice" means a group of two or more holders 34001
of certificates under this chapter legally organized as a 34002
partnership, professional corporation or association, limited 34003
liability company, foundation, nonprofit corporation, faculty 34004
practice plan, or similar group practice entity, including an 34005
organization comprised of a nonprofit medical clinic that 34006
contracts with a professional corporation or association of 34007
physicians to provide medical services exclusively to patients of 34008
the clinic in order to comply with section 1701.03 of the Revised 34009
Code and including a corporation, limited liability company, 34010
partnership, or professional association described in division (B) 34011
of section 4731.226 of the Revised Code formed for the purpose of 34012
providing a combination of the professional services of 34013
optometrists who are licensed, certificated, or otherwise legally 34014
authorized to practice optometry under Chapter 4725. of the 34015
Revised Code, chiropractors who are licensed, certificated, or 34016
otherwise legally authorized to practice chiropractic under 34017
Chapter 4734. of the Revised Code, psychologists who are licensed, 34018
certificated, or otherwise legally authorized to practice 34019
psychology under Chapter 4732. of the Revised Code, registered or 34020
licensed practical nurses who are licensed, certificated, or 34021
otherwise legally authorized to practice nursing under Chapter 34022
4723. of the Revised Code, pharmacists who are licensed, 34023
certificated, or otherwise legally authorized to practice pharmacy 34024
under Chapter 4729. of the Revised Code, physical therapists who 34025

are licensed, certificated, or otherwise legally authorized to 34026
practice physical therapy under sections 4755.40 to 4755.53 of the 34027
Revised Code, mechanotherapists who are licensed, certificated, or 34028
otherwise legally authorized to practice mechanotherapy under 34029
section 4731.151 of the Revised Code, and doctors of medicine and 34030
surgery, osteopathic medicine and surgery, or podiatric medicine 34031
and surgery who are licensed, certificated, or otherwise legally 34032
authorized for their respective practices under this chapter, to 34033
which all of the following apply: 34034

(a) Each physician who is a member of the group practice 34035
provides substantially the full range of services that the 34036
physician routinely provides, including medical care, 34037
consultation, diagnosis, or treatment, through the joint use of 34038
shared office space, facilities, equipment, and personnel. 34039

(b) Substantially all of the services of the members of the 34040
group are provided through the group and are billed in the name of 34041
the group and amounts so received are treated as receipts of the 34042
group. 34043

(c) The overhead expenses of and the income from the practice 34044
are distributed in accordance with methods previously determined 34045
by members of the group. 34046

(d) The group practice meets any other requirements that the 34047
state medical board applies in rules adopted under section 4731.70 34048
of the Revised Code. 34049

(2) In the case of a faculty practice plan associated with a 34050
hospital with a medical residency training program in which 34051
physician members may provide a variety of specialty services and 34052
provide professional services both within and outside the group, 34053
as well as perform other tasks such as research, the criteria in 34054
division (E)(1) of this section apply only with respect to 34055
services rendered within the faculty practice plan. 34056

(F) "Home health care services" and "immediate family" have 34057
the same meanings as in the rules adopted under section 4731.70 of 34058
the Revised Code. 34059

(G) "Hospital" has the same meaning as in section 3727.01 of 34060
the Revised Code. 34061

(H) A "referral" includes both of the following: 34062

(1) A request by a holder of a certificate under this chapter 34063
for an item or service, including a request for a consultation 34064
with another physician and any test or procedure ordered by or to 34065
be performed by or under the supervision of the other physician; 34066

(2) A request for or establishment of a plan of care by a 34067
certificate holder that includes the provision of designated 34068
health services. 34069

(I) "Third-party payer" has the same meaning as in section 34070
3901.38 of the Revised Code. 34071

Sec. 4731.71. The auditor of state may implement procedures 34072
to detect violations of section 4731.66 or 4731.69 of the Revised 34073
Code within governmental health care programs administered by the 34074
state. The auditor of state shall report any violation of either 34075
section to the state medical board and shall certify to the 34076
attorney general in accordance with section 131.02 of the Revised 34077
Code the amount of any refund owed to a state-administered 34078
governmental health care program under section 4731.69 of the 34079
Revised Code as a result of a violation. If a refund is owed to 34080
the medical assistance program established under Chapter 5111. of 34081
the Revised Code or the disability ~~assistance~~ medical assistance 34082
program established under Chapter 5115. of the Revised Code, the 34083
auditor of state also shall report the amount to the department of 34084
commerce. 34085

The state medical board also may implement procedures to 34086

detect violations of section 4731.66 or 4731.69 of the Revised Code. 34087
34088

Sec. 4734.15. (A) The license provided for in this chapter shall entitle the holder thereof to practice chiropractic in this state. All of the following apply to the practice of chiropractic in this state: 34089
34090
34091
34092

(1) A chiropractor is authorized to examine, diagnose, and assume responsibility for the care of patients, any or all of which is included in the practice of chiropractic. 34093
34094
34095

(2) The practice of chiropractic does not permit the chiropractor to treat infectious, contagious, or venereal disease, to perform surgery or acupuncture, or to prescribe or administer drugs for treatment. 34096
34097
34098
34099

(3) A chiropractor may use roentgen rays only for diagnostic purposes. 34100
34101

(4) The practice of chiropractic does not include the performance of abortions. 34102
34103

(B) An individual holding a valid, current license to practice chiropractic is entitled to use the title "doctor," "doctor of chiropractic," "chiropractic physician," or "chiropractic" and is a "physician" for the purposes of Chapter 4123. of the Revised Code ~~and the medicaid program operated pursuant to Chapter 5111. of the Revised Code.~~ 34104
34105
34106
34107
34108
34109

Sec. 4736.12. (A) The state board of sanitarian registration shall charge the following fees: 34110
34111

(1) To apply as a sanitarian-in-training, ~~fifty-seven~~ seventy-five dollars; 34112
34113

(2) For sanitarians-in-training to apply for registration as sanitarians, ~~fifty-seven~~ seventy-five dollars. The applicant shall 34114
34115

pay this fee only once regardless of the number of times the 34116
applicant takes an examination required under section 4736.08 of 34117
the Revised Code. 34118

(3) For persons other than sanitarians-in-training to apply 34119
for registration as sanitarians, including persons meeting the 34120
requirements of section 4736.16 of the Revised Code, one hundred 34121
~~fourteen~~ fifty dollars. The applicant shall pay this fee only once 34122
regardless of the number of times the applicant takes an 34123
examination required under section 4736.08 of the Revised Code. 34124

(4) The renewal fee for registered sanitarians shall be ~~fixed~~ 34125
~~by the board and shall not exceed sixty one~~ sixty-nine dollars. 34126

(5) The renewal fee for sanitarians-in-training shall be 34127
~~fixed by the board and shall not exceed sixty one~~ sixty-nine 34128
dollars. 34129

(6) For late application for renewal, twenty-five dollars. 34130

The board of sanitarian registration, with the approval of 34131
the controlling board, may establish fees in excess of the amounts 34132
provided in this section, provided that such fees do not exceed 34133
the amounts permitted by this section by more than fifty per cent. 34134

(B) The board of sanitarian registration shall charge 34135
separate fees for examinations as required by section 4736.08 of 34136
the Revised Code, provided that the fees are not in excess of the 34137
actual cost to the board of conducting the examinations. 34138

(C) The board of sanitarian registration may adopt rules 34139
establishing fees for all of the following: 34140

(1) Application for the registration of a training agency 34141
approved under rules adopted by the board pursuant to section 34142
4736.11 of the Revised Code and for the annual registration 34143
renewal of an approved training agency. 34144

(2) Application for the review of continuing education hours 34145

submitted for the board's approval by approved training agencies 34146
or by registered sanitarians or sanitarians-in-training. 34147

Sec. 4741.17. (A) Applicants or registrants shall pay to the 34148
state veterinary medical licensing board: 34149

(1) For an initial veterinary license based on examination, 34150
on or after the first day of March in an even-numbered year, three 34151
hundred seventy-five dollars, and on or after the first day of 34152
March in an odd-numbered year, two hundred fifty dollars; 34153

(2) For a veterinary license by reciprocity issued on or 34154
after the first day of March in an even-numbered year, four 34155
hundred twenty-five dollars, and on or after the first day of 34156
March in an odd-numbered year, three hundred dollars; 34157

(3) For a veterinary temporary permit, one hundred dollars; 34158

(4) For a duplicate license, thirty-five dollars; 34159

(5) For the veterinary biennial renewal fee, where the 34160
application is postmarked no later than the first day of March, 34161
~~one two~~ two hundred ~~fifty-five~~ dollars; where the application is 34162
postmarked after the first day of March, but no later than the 34163
first day of April, two hundred ~~twenty-five~~ seventy-five dollars; 34164
and where the application is postmarked after the first day of 34165
April, four hundred fifty dollars; 34166

(6) For an initial registered veterinary technician 34167
registration fee on or after the first day of March in an 34168
odd-numbered year, thirty-five dollars, and on or after the first 34169
day of March in an even-numbered year, twenty-five dollars; 34170

(7) For the biennial renewal registration fee of a registered 34171
veterinary technician, where the application is postmarked no 34172
later than the first day of March, ~~thirty-five~~ forty-five dollars; 34173
where the application is postmarked after the first day of March, 34174
but no later than the first day of April, ~~forty-five~~ fifty-five 34175

dollars; and where the application is postmarked after the first 34176
day of April, ~~sixty~~ sixty-five dollars; 34177

(8) For a specialist certificate, fifty dollars. The 34178
certificate is not subject to renewal. 34179

(9) For the reinstatement of a suspended license, 34180
seventy-five dollars; 34181

(10) For examinations offered by the board, a fee, which 34182
shall be established by the board, in an amount adequate to cover 34183
the expense of procuring, administering, and scoring examinations. 34184

(B) The board, subject to the approval of the controlling 34185
board, may establish fees in excess of the amounts provided in 34186
this section, provided that the fees do not exceed the amounts 34187
permitted by this section by more than fifty per cent. 34188

(C) For the purposes of divisions (A)(5) and (7) of this 34189
section, a date stamp of the office of the board may serve in lieu 34190
of a postmark. 34191

Sec. 4743.05. Except as otherwise provided in sections 34192
4701.20 and 4729.65 of the Revised Code, all money collected under 34193
Chapters 3773., 4701., 4703., 4709., 4713., 4715., 4717., 4723., 34194
4725., 4729., 4732., 4733., 4734., 4736., 4741., 4753., 4755., 34195
4757., 4758., 4759., ~~and 4761., 4771., and 4779.~~ of the Revised 34196
Code, ~~and until December 31, 2004, money collected under Chapter~~ 34197
~~4779. of the Revised Code,~~ shall be paid into the state treasury 34198
to the credit of the occupational licensing and regulatory fund, 34199
which is hereby created for use in administering such chapters. 34200

At the end of each quarter, the director of budget and 34201
management shall transfer from the occupational licensing and 34202
regulatory fund to the nurse education assistance fund created in 34203
section 3333.28 of the Revised Code the amount certified to the 34204
director under division (B) of section 4723.08 of the Revised 34205

Code. 34206

At the end of each quarter, the director shall transfer from 34207
the occupational licensing and regulatory fund to the certified 34208
public accountant education assistance fund created in section 34209
4701.26 of the Revised Code the amount certified to the director 34210
under division (H)(2) of section 4701.10 of the Revised Code. 34211

Sec. 4747.05. (A) The hearing aid dealers and fitters 34212
licensing board shall issue to each applicant, within sixty days 34213
of receipt of a properly completed application and payment of two 34214
hundred ~~fifty~~ sixty-two dollars, a hearing aid dealer's or 34215
fitter's license if the applicant, if an individual: 34216

(1) Is at least eighteen years of age; 34217

(2) Is a person of good moral character; 34218

(3) Is free of contagious or infectious disease; 34219

(4) Has successfully passed a qualifying examination 34220
specified and administered by the board. 34221

(B) If the applicant is a firm, partnership, association, or 34222
corporation, the application, in addition to such information as 34223
the board requires, shall be accompanied by an application for a 34224
license for each person, whether owner or employee, of the firm, 34225
partnership, association, or corporation, who engages in dealing 34226
in or fitting of hearing aids, or shall contain a statement that 34227
such applications are submitted separately. No firm, partnership, 34228
association, or corporation licensed pursuant to this chapter 34229
shall permit any unlicensed person to sell or fit hearing aids. 34230

(C) Each license issued expires on the thirtieth day of 34231
January of the year following that in which it was issued. 34232

Sec. 4747.06. (A) Each person engaged in the practice of 34233
dealing in or fitting of hearing aids who holds a valid hearing 34234

aid dealer's or fitter's license shall apply annually to the 34235
hearing aid dealers and fitters licensing board for renewal of 34236
such license under the standard renewal procedure specified in 34237
Chapter 4745. of the Revised Code. The board shall issue to each 34238
applicant, on proof of completion of the continuing education 34239
required by division (B) of this section and payment of one 34240
hundred ~~fifty~~ fifty-seven dollars on or before the first day of 34241
February, one hundred ~~seventy-five~~ eighty-three dollars on or 34242
before the first day of March, or two hundred ten dollars 34243
thereafter, a renewed hearing aid dealer's or fitter's license. No 34244
person who applies for renewal of a hearing aid dealer's or 34245
fitter's license that has expired shall be required to take any 34246
examination as a condition of renewal provided application for 34247
renewal is made within two years of the date such license expired. 34248

(B) Each person engaged in the practice of dealing in or 34249
fitting of hearing aids who holds a valid hearing aid dealer's or 34250
fitter's license shall complete each year not less than ten hours 34251
of continuing professional education approved by the board. On a 34252
form provided by the board, the person shall certify to the board, 34253
at the time of license renewal pursuant to division (A) of this 34254
section, that in the preceding year the person has completed 34255
continuing education in compliance with this division and shall 34256
submit any additional information required by rule of the board 34257
regarding the continuing education. The board shall adopt rules in 34258
accordance with Chapter 119. of the Revised Code establishing the 34259
standards continuing education programs must meet to obtain board 34260
approval and continuing education reporting requirements. 34261

Continuing education may be applied to meet the requirement 34262
of this division if it is provided or certified by any of the 34263
following: 34264

(1) The national institute of hearing instruments studies 34265
committee of the international hearing society; 34266

(2) The American speech-language hearing association; 34267

(3) The American academy of audiology. 34268

The board may excuse persons licensed under this chapter, as 34269
a group or as individuals, from all or any part of the 34270
requirements of this division because of an unusual circumstance, 34271
emergency, or special hardship. 34272

Sec. 4747.07. Each person who holds a hearing aid dealer's or 34273
fitter's license and engages in the practice of dealing in and 34274
fitting of hearing aids shall display such license in a 34275
conspicuous place in the person's office or place of business at 34276
all times. Each person who maintains more than one office or place 34277
of business shall post a duplicate copy of the license at each 34278
location. The hearing aid dealers and fitters licensing board 34279
shall issue duplicate copies of a license upon receipt of a 34280
properly completed application and payment of ~~fifteen~~ sixteen 34281
dollars for each copy requested. 34282

Sec. 4747.10. Each person currently engaged in training to 34283
become a licensed hearing aid dealer or fitter shall apply to the 34284
hearing aid dealers and fitters licensing board for a hearing aid 34285
dealer's and fitter's trainee permit. The board shall issue to 34286
each applicant within thirty days of receipt of a properly 34287
completed application and payment of one hundred fifty dollars, a 34288
trainee permit if such applicant is: 34289

(A) At least eighteen years of age; 34290

(B) The holder of a diploma from an accredited high school, 34291
or possesses an equivalent education; 34292

(C) A person of good moral character; 34293

(D) Free of contagious or infectious disease. 34294

Each trainee permit issued by the board expires one year from 34295

the date it was first issued, and may be renewed once if the 34296
trainee has not successfully completed the qualifying requirements 34297
for licensing as a hearing aid dealer or fitter before the 34298
expiration date of such permit. The board shall issue a renewed 34299
permit to each applicant upon receipt of a properly completed 34300
application and payment of one hundred five dollars. No person 34301
holding a trainee permit shall engage in the practice of dealing 34302
in or fitting of hearing aids except while under supervision by a 34303
licensed hearing aid dealer or fitter. 34304

Sec. 4751.06. (A) An applicant for licensure as a nursing 34305
home administrator who has successfully completed the requirements 34306
of section 4751.05 of the Revised Code, passed the examination 34307
administered by the board of examiners of nursing home 34308
administrators or a government or private entity under contract 34309
with the board, and paid to the board an original license fee of 34310
two hundred ~~ten~~ fifty dollars shall be issued a license on a form 34311
provided by the board. Such license shall certify that the 34312
applicant has met the licensure requirements of Chapter 4751. of 34313
the Revised Code and is entitled to practice as a licensed nursing 34314
home administrator. 34315

(B) A temporary license for a period not to exceed one 34316
hundred eighty days may be issued to an individual temporarily 34317
filling the position of a nursing home administrator vacated by 34318
reason of death, illness, or other unexpected cause, pursuant to 34319
regulations adopted by the board. 34320

(C) The fee for a temporary license is one hundred dollars. 34321
Said fee must accompany the application for the temporary license. 34322

(D) Any license or temporary license issued by the board 34323
pursuant to this section shall be under the hand of the 34324
chairperson and the secretary of the board. 34325

(E) A duplicate of the original certificate of registration 34326

or license may be secured to replace one that has been lost or 34327
destroyed by submitting to the board a notarized statement 34328
explaining the conditions of the loss, mutilation, or destruction 34329
of the certificate or license and by paying a fee of twenty-five 34330
dollars. 34331

(F) A duplicate certificate of registration and license may 34332
be issued in the event of a legal change of name by submitting to 34333
the board a certified copy of the court order or marriage license 34334
establishing the change of name, by returning at the same time the 34335
original license and certificate of registration, and by paying a 34336
fee of twenty-five dollars. 34337

Sec. 4751.07. (A) Every individual who holds a valid license 34338
as a nursing home administrator issued under division (A) of 34339
section 4751.06 of the Revised Code, shall immediately upon 34340
issuance thereof be registered with the board of examiners of 34341
nursing home administrators and be issued a certificate of 34342
registration. Such individual shall annually apply to the board 34343
for a new certificate of registration on forms provided for such 34344
purpose prior to the expiration of the certificate of registration 34345
and shall at the same time submit satisfactory evidence to the 34346
board of having attended such continuing education programs or 34347
courses of study as may be prescribed in rules adopted by the 34348
board. 34349

(B) Upon making an application for a new certificate of 34350
registration such individual shall pay the annual registration fee 34351
of two hundred ~~ten~~ seventy-five dollars. 34352

(C) Upon receipt of such application for registration and the 34353
registration fee required by divisions (A) and (B) of this 34354
section, the board shall issue a certificate of registration to 34355
such nursing home administrator. 34356

(D) The license of a nursing home administrator who fails to 34357

comply with this section shall automatically lapse. 34358

(E) A nursing home administrator who has been licensed and 34359
registered in this state who determines to temporarily abandon the 34360
practice of nursing home administration shall notify the board in 34361
writing immediately; provided, that such individual may thereafter 34362
register to resume the practice of nursing home administration 34363
within the state upon complying with the requirements of this 34364
section regarding annual registration. 34365

(F) Only an individual who has qualified as a licensed and 34366
registered nursing home administrator under Chapter 4751. of the 34367
Revised Code and the rules adopted thereunder, and who holds a 34368
valid current registration certificate pursuant to this section, 34369
may use the title "nursing home administrator," or the 34370
abbreviation "N.H.A." after the individual's name. No other person 34371
shall use such title or such abbreviation or any other words, 34372
letters, sign, card, or device tending to indicate or to imply 34373
that the person is a licensed and registered nursing home 34374
administrator. 34375

(G) Every person holding a valid license entitling the person 34376
to practice nursing home administration in this state shall 34377
display said license in the nursing home which is the person's 34378
principal place of employment, and while engaged in the practice 34379
of nursing home administration shall have at hand the current 34380
registration certificate. 34381

(H) Every person holding a valid temporary license shall have 34382
such license at hand while engaged in the practice of nursing home 34383
administration. 34384

Sec. 4759.08. (A) The Ohio board of dietetics shall charge 34385
and collect fees as described in this section for issuing the 34386
following: 34387

(1) An application for an initial dietitian license, or an application for ~~reinstatement~~ reactivation of an inactive license, one hundred ~~ten~~ forty dollars, and for reinstatement of a lapsed, revoked, or suspended license, ~~one two hundred sixty-five~~ dollars; (1) 34388
34389
34390
34391

(2) License renewal, ~~eighty~~ one hundred ten dollars; (2) 34392

(3) A limited permit, and renewal of the permit, ~~fifty-five~~ seventy dollars; (3) 34393
34394

(4) A duplicate license or permit, twenty dollars; (4) 34395

(5) For processing a late application for renewal of any license or permit, an additional fee equal to fifty per cent of the fee for the renewal. (5) 34396
34397
34398

(B) The board shall not require a licensed dietitian holding an inactive license to pay the renewal fee. (B) 34399
34400

(C) Subject to the approval of the controlling board, the Ohio board of dietetics may establish fees in excess of the amounts provided in division (A) of this section, provided that the fees do not exceed the amounts by greater than fifty per cent. (C) 34401
34402
34403
34404

(D) The board may adopt rules pursuant to Chapter 119. of the Revised Code to waive all or part of the fee for an initial license if the license is issued within one hundred days of the date of expiration of the license. (D) 34405
34406
34407
34408

(E) All receipts of the board shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be approved by the chairperson or secretary of the board, or both, as authorized by the board. (E) 34409
34410
34411
34412
34413

Sec. 4771.22. The Ohio athletic commission shall deposit all money it receives under this chapter to the credit of the ~~athlete agents registration~~ occupational licensing and regulatory fund, (Sec. 4771.22) 34414
34415
34416

~~which is hereby created in the state treasury. The commission~~ 34417
~~shall use the fund to administer and enforce this chapter under~~ 34418
~~section 4743.05 of the Revised Code.~~ 34419

Sec. 4779.08. (A) The state board of orthotics, prosthetics, 34420
and pedorthics shall adopt rules in accordance with Chapter 119. 34421
of the Revised Code to carry out the purposes of this chapter, 34422
including rules prescribing all of the following: 34423

(1) The form and manner of filing of applications to be 34424
admitted to examinations and for licensure and license renewal; 34425

(2) Standards and procedures for formulating, evaluating, 34426
approving, and administering licensing examinations or recognizing 34427
other entities that conduct examinations; 34428

(3) The form, scoring, and scheduling of licensing 34429
examinations; 34430

(4) Fees for examinations and applications for licensure and 34431
license renewal; 34432

(5) Fees for approval of continuing education courses; 34433

(6) Procedures for issuance, renewal, suspension, and 34434
revocation of licenses and the conduct of disciplinary hearings; 34435

(7) Standards of ethical and professional conduct in the 34436
practice of orthotics, prosthetics, and pedorthics; 34437

(8) Standards for approving national certification 34438
organizations in orthotics, prosthetics, and pedorthics; 34439

(9) Fines for violations of this chapter; 34440

(10) Standards for the recognition and approval of 34441
educational programs required for licensure, including standards 34442
for approving foreign educational credentials; 34443

(11) Standards for continuing education programs required for 34444
license renewal; 34445

(12) Provisions for making available the information described in section 4779.22 of the Revised Code.	34446 34447
(B) The board may adopt any other rules necessary for the administration of this chapter.	34448 34449
(C) The fees prescribed by this section shall be paid to the treasurer of state, who shall from the effective date of this section until December 31, 2004, deposit the fees in the occupational licensing and regulatory fund established in section 4743.05 of the Revised Code.	34450 34451 34452 34453 34454
Sec. 4779.17. The state board of orthotics, prosthetics, and pedorthics shall issue a license under section 4779.09 of the Revised Code to practice orthotics, prosthetics, orthotics and prosthetics, or pedorthics without examination to an applicant who meets all of the following requirements:	34455 34456 34457 34458 34459
(A) Applies to the board in accordance with section 4779.09 of the Revised Code;	34460 34461
(B) Holds a license to practice orthotics, prosthetics, orthotics and prosthetics, or pedorthics issued by the appropriate authority of another state;	34462 34463 34464
(C) One of the following applies:	34465
(1) In the case of an applicant for a license to practice orthotics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.10 of the Revised Code.	34466 34467 34468
(2) In the case of an applicant for a license to practice prosthetics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.11 of the Revised Code.	34469 34470 34471
(3) In the case of an applicant for a license to practice orthotics and prosthetics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.12 of the Revised Code.	34472 34473 34474

(4) In the case of an applicant for a license to practice
pedorthics, the applicant meets the requirements in divisions (B)
and (C) of section 4779.13 of the Revised Code. 34475
34476
34477

(D) The fees prescribed by this section shall be paid to the
treasurer of state, who shall ~~from the effective date of this~~
~~section until December 31, 2004,~~ deposit the fees in the
occupational licensing and regulatory fund established in section
4743.05 of the Revised Code. 34478
34479
34480
34481
34482

Sec. 4779.18. (A) The state board of orthotics, prosthetics,
and pedorthics shall issue a temporary license to an individual
who meets all of the following requirements: 34483
34484
34485

(1) Applies to the board in accordance with rules adopted
under section 4779.08 of the Revised Code and pays the application
fee specified in the rules; 34486
34487
34488

(2) Is eighteen years of age or older; 34489

(3) Is of good moral character; 34490

(4) One of the following applies: 34491

(a) In the case of an applicant for a license to practice
orthotics, the applicant meets the requirements in divisions
(A)(2) and (3) of section 4779.10 of the Revised Code. 34492
34493
34494

(b) In the case of an applicant for a license to practice
prosthetics, the applicant meets the requirements in divisions
(A)(2) and (3) of section 4779.11 of the Revised Code. 34495
34496
34497

(c) In the case of an applicant for a license to practice
orthotics and prosthetics, the applicant meets the requirements in
divisions (A)(2) and (3) of section 4779.12 of the Revised Code. 34498
34499
34500

(d) In the case of an applicant for a license to practice
pedorthics, the applicant meets the requirements in divisions (B)
and (C) of section 4779.13 of the Revised Code. 34501
34502
34503

(B) A temporary license issued under this section is valid 34504
for one year and may be renewed once in accordance with rules 34505
adopted by the board under section 4779.08 of the Revised Code. 34506

An individual who holds a temporary license may practice 34507
orthotics, prosthetics, orthotics and prosthetics, or pedorthics 34508
only under the supervision of an individual who holds a license 34509
issued under section 4779.09 of the Revised Code in the same area 34510
of practice. 34511

(C) The fees prescribed by this section shall be paid to the 34512
treasurer of state, who shall ~~from the effective date of this~~ 34513
~~section until December 31, 2004,~~ deposit the fees in the 34514
occupational licensing and regulatory fund established in section 34515
4743.05 of the Revised Code. 34516

Sec. 4903.24. If the public utilities commission finds after 34517
investigating that any rate, joint rate, fare, charge, toll, 34518
rental, schedule, or classification of service is unjust, 34519
unreasonable, insufficient, unjustly discriminatory, unjustly 34520
preferential, or in violation of law, or that any service is 34521
inadequate or cannot be obtained, the public utility found to be 34522
at fault shall pay the expenses incurred by the commission upon 34523
such investigation. 34524

All fees, expenses, and costs of, or in connection with, any 34525
hearing or investigation may be imposed by the commission upon any 34526
party to the record or may be divided among any parties to the 34527
record in such proportion as the commission determines. 34528

All fees, expenses, and costs authorized and collected under 34529
this section shall be deposited to the credit of the special 34530
assessment fund, which is hereby created in the state treasury. 34531
Money in the fund shall be used by the commission for the purpose 34532
of covering the costs of any investigations or hearings it orders 34533

regarding any public utility. 34534

Sec. 4905.79. Any telephone company, as defined in ~~division~~ 34535
~~(D)(2)~~ of section 5727.01 of the Revised Code, that is required to 34536
provide any telephone service program implemented after March 27, 34537
1991, to aid the communicatively impaired in accessing the 34538
telephone network shall be allowed a tax credit for the costs of 34539
any such program under section ~~5727.44~~ 5733.56 of the Revised 34540
Code. Relative to any such program, the public utilities 34541
commission, in accordance with its rules, shall allow interested 34542
parties to intervene and participate in any proceeding or part of 34543
a proceeding brought before the commission pursuant to this 34544
section. The commission shall adopt rules it considers necessary 34545
to carry out this section. 34546

Sec. 4905.91. For the purpose of protecting the public safety 34547
with respect to intrastate pipe-line transportation by any 34548
operator: 34549

(A) The public utilities commission shall: 34550

(1) Adopt, and may amend or rescind, rules to carry out 34551
sections 4905.90 to 4905.96 of the Revised Code, including rules 34552
concerning pipe-line safety, drug testing, and enforcement 34553
procedures. The commission shall adopt these rules only after 34554
notice and opportunity for public comment. The rules adopted under 34555
this division and any orders issued under sections 4905.90 to 34556
4905.96 of the Revised Code constitute the pipe-line safety code. 34557
The commission shall administer and enforce that code. 34558

(2) Make certifications and reports to the United States 34559
department of transportation as required under the Natural Gas 34560
Pipeline Safety Act. 34561

(B) The commission may: 34562

(1) Investigate any service, act, practice, policy, or 34563

omission by any operator to determine its compliance with sections 34564
4905.90 to 4905.96 of the Revised Code and the pipe-line safety 34565
code; 34566

(2) Investigate any intrastate pipe-line transportation 34567
facility to determine if it is hazardous to life or property, as 34568
provided in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1679b(b)(2) and 34569
(3); 34570

(3) Investigate the existence or report of any safety-related 34571
condition that involves any intrastate pipe-line transportation 34572
facility; 34573

(4) Enter into and perform contracts or agreements with the 34574
United States department of transportation to inspect interstate 34575
transmission facilities pursuant to the Natural Gas Pipeline 34576
Safety Act; 34577

(5) Accept grants-in-aid, ~~funds~~ cash, and reimbursements 34578
provided for or made available to this state by the federal 34579
government to carry out the Natural Gas Pipeline Safety Act or to 34580
enforce sections 4905.90 to 4905.96 of the Revised Code and the 34581
pipe-line safety code. All such grants-in-aid, cash, and 34582
reimbursements shall be deposited to the credit of the gas 34583
pipe-line safety fund, which is hereby created in the state 34584
treasury, to be used by the commission for the purpose of carrying 34585
out this section. 34586

(C) The commission's regulation of gathering lines shall 34587
conform to the regulation of gathering lines in 49 C.F.R. ~~parts~~ 34588
192 and 199, as amended, and the commission's annual certification 34589
agreements with the United States department of transportation, 34590
except that rule 4901:1-16-03, paragraph (D) of rule 4901:1-16-05, 34591
and rule 4901:1-16-06 of the Ohio Administrative Code shall also 34592
apply to gathering lines. The procedural rules under chapter 34593
4901:1-16 of the Ohio Administrative Code shall also apply to 34594

operators of gathering lines. 34595

Sec. 4919.79. (A) The public utilities commission may adopt 34596
safety rules applicable to the highway transportation and offering 34597
for transportation of hazardous materials in interstate commerce, 34598
which highway transportation takes place into or through this 34599
state. 34600

(B) The commission may adopt safety rules applicable to the 34601
highway transportation of persons or property in interstate 34602
commerce, which transportation takes place into or through this 34603
state. 34604

(C) Rules adopted under divisions (A) and (B) of this section 34605
shall be consistent with, and equivalent in scope, coverage, and 34606
content to, the "Hazardous Materials Transportation Act," 88 Stat. 34607
2156 (1975), 49 U.S.C.A. 1801, as amended, and regulations adopted 34608
under it, and the "Motor Carrier Safety Act of 1984," 98 Stat. 34609
2832, 49 U.S.C.A. 2501, and regulations adopted under it, 34610
respectively. No person shall violate a rule adopted under 34611
division (A) or (B) of this section or any order of the commission 34612
issued to secure compliance with any such rule. 34613

(D) The commission shall cooperate with, and permit the use 34614
of, the services, records, and facilities of the commission as 34615
fully as practicable by appropriate officers of the interstate 34616
commerce commission, the United States department of 34617
transportation, and other federal agencies or commissions and 34618
appropriate commissions of other states in the enforcement and 34619
administration of state and federal laws relating to highway 34620
transportation by motor vehicles. The commission may enter into 34621
cooperative agreements with the interstate commerce commission, 34622
the United States department of transportation, and any other 34623
federal agency or commission to enforce the economic and safety 34624
laws and rules of this state and of the United States concerning 34625

highway transportation by motor vehicles. All grants-in-aid, cash, and reimbursements received by the commission pursuant to those cooperative agreements shall be deposited to the credit of the motor carrier safety fund, which is hereby created in the state treasury, to be used by the commission for the purpose of carrying out this section.

(E) To achieve the purposes of this section, the commission may, through its inspectors or other authorized employees, inspect any vehicles of carriers of persons or property in interstate commerce subject to the safety rules prescribed by this section and may enter upon the premises and vehicles of such carriers to examine any of the carriers' records or documents that relate to the safety of operation of such carriers. In order to assist the commission in the performance of its duties under this section, authorized employees of the commercial motor vehicle safety enforcement unit, division of state highway patrol, of the department of public safety may enter in or upon, for purposes of inspection, any vehicle of any such carrier.

In order to inspect motor vehicles owned or operated by private motor carriers of persons, authorized employees of the commercial motor vehicle safety enforcement unit, division of state highway patrol, of the department of public safety may enter in or upon the premises of any private carrier of persons in interstate commerce, subject to the safety rules prescribed by this section.

Sec. 4931.45. (A) A final plan may be amended to expand the territory included in the countywide 9-1-1 system, to upgrade any part or all of a system from basic 9-1-1 to enhanced 9-1-1 service, to adjust the territory served by a public safety answering point, to represcribe the funding of public safety answering points as between the alternatives set forth in division

(B)(5) of section 4931.43 of the Revised Code, or to make any 34657
other necessary adjustments to the plan only by convening a new 34658
9-1-1 planning committee, and adopting an amended final plan. The 34659
convening of a new 9-1-1 planning committee and the proposal and 34660
adoption of an amended final plan shall be made in the same manner 34661
required for the convening of an initial committee and adoption of 34662
an original proposed and final plan under sections 4931.42 to 34663
4931.44 of the Revised Code. Adoption of any resolution under 34664
section 4931.51 of the Revised Code pursuant to a final plan that 34665
both has been adopted and provides for funding through charges 34666
imposed under that section is not an amendment of a final plan for 34667
the purpose of this division. 34668

(B) When a final plan is amended to expand the territory that 34669
receives 9-1-1 service or to upgrade a 9-1-1 system from basic to 34670
enhanced 9-1-1 service, ~~the provisions of~~ sections 4931.47 and 34671
~~5727.39~~ 5733.55 of the Revised Code apply with respect to the 34672
telephone company's recovery of the nonrecurring and recurring 34673
rates and charges for the telephone network portion of the system. 34674

Sec. 4931.47. (A) In accordance with Chapters 4901., 4903., 34675
4905., 4909., and 4931. of the Revised Code, the public utilities 34676
commission shall determine the just, reasonable, and compensatory 34677
rates, tolls, classifications, charges, or rentals to be observed 34678
and charged for the telephone network portion of a basic and 34679
enhanced 9-1-1 system, and each telephone company participating in 34680
the system shall be subject to such chapters, to the extent they 34681
apply, as to the service provided by its portion of the telephone 34682
network system as described in the final plan or to be installed 34683
pursuant to agreements under section 4931.48 of the Revised Code, 34684
and as to the rates, tolls, classifications, charges, or rentals 34685
to be observed and charged for that service. 34686

(B) Only the customers of a participating telephone company 34687

that are served within the area covered by a 9-1-1 system shall 34688
pay the recurring rates for the maintenance and operation of the 34689
telephone network in providing 9-1-1 service. Such rates shall be 34690
computed by dividing the total monthly recurring rates set forth 34691
in a telephone company's schedule as filed in accordance with 34692
section 4905.30 of the Revised Code, by the total number of 34693
residential and business customer access lines, or their 34694
equivalent, within the area served. Each residential and business 34695
customer within the area served shall pay the recurring rates 34696
based on the number of its residential and business customer 34697
access lines or their equivalent. No company may include such 34698
amount on any customer's bill until the company has completed its 34699
portion of the telephone network in accordance with the terms, 34700
conditions, requirements, and specifications of the final plan or 34701
an agreement made under section 4931.48 of the Revised Code. 34702

(C)(1) Except as otherwise provided in division (C)(2) of 34703
this section, the total nonrecurring charges for the telephone 34704
network used in providing 9-1-1 service, as set forth in the 34705
schedule filed by a telephone company in accordance with section 34706
4905.30 of the Revised Code, on completion of the installation of 34707
the network in accordance with the terms, conditions, 34708
requirements, and specifications of the final plan or pursuant to 34709
section 4931.48 of the Revised Code shall be recovered by the 34710
company through the credit authorized by section ~~5727.39~~ 5733.55 34711
of the Revised Code. 34712

(2) The credit shall not be allowed for upgrading of a system 34713
from basic to enhanced 9-1-1 service when: 34714

(a) The telephone company received the credit for the 34715
telephone network portion of the basic 9-1-1 system now proposed 34716
to be upgraded; and 34717

(b) At the time the final plan or agreement pursuant to 34718
section 4931.48 of the Revised Code calling for the basic 9-1-1 34719

system was agreed to, the telephone company was capable of 34720
reasonably meeting the technical and economic requirements of 34721
providing the telephone network portion of an enhanced 9-1-1 34722
system within the territory proposed to be upgraded, as determined 34723
by the public utilities commission under division (A) or (H) of 34724
section 4931.41 or division (C) of section 4931.48 of the Revised 34725
Code. 34726

(3) When the credit is not allowed under division (C)(2) of 34727
this section, the total nonrecurring charges for the telephone 34728
network used in providing 9-1-1 service, as set forth in the 34729
schedule filed by a telephone company in accordance with section 34730
4905.30 of the Revised Code, on completion of the installation of 34731
the network in accordance with the terms, conditions, 34732
requirements, and specifications of the final plan or pursuant to 34733
section 4931.48 of the Revised Code, shall be paid by the 34734
municipal corporations and townships with any territory in the 34735
area in which such upgrade from basic to enhanced 9-1-1 service is 34736
made. 34737

(D) Where customer premises equipment for a public safety 34738
answering point is supplied by a telephone company that is 34739
required to file a schedule under section 4905.30 of the Revised 34740
Code pertaining to customer premises equipment, the recurring and 34741
nonrecurring rates and charges for the installation and 34742
maintenance of the equipment specified in the schedule shall 34743
apply. 34744

Sec. 4931.48. (A) If a final plan is disapproved under 34745
division (B) of section 4931.44 of the Revised Code, by 34746
resolution, the legislative authority of a municipal corporation 34747
or township that contains at least thirty per cent of the county's 34748
population may establish within its boundaries, or the legislative 34749
authorities of a group of municipal corporations or townships each 34750

of which is contiguous with at least one other such municipal 34751
corporation or township in the group, together containing at least 34752
thirty per cent of the county's population, may jointly establish 34753
within their boundaries a 9-1-1 system. For this purpose, the 34754
municipal corporation or township may enter into an agreement, and 34755
the contiguous municipal corporations or townships may jointly 34756
enter into an agreement with a telephone company providing service 34757
in the municipal corporations or townships to provide for the 34758
telephone network portion of the system. 34759

(B) If no resolution has been adopted to convene a 9-1-1 34760
planning committee under section 4931.42 of the Revised Code, but 34761
not sooner than eighteen months after the effective date of such 34762
section, by resolution, the legislative authority of any municipal 34763
corporation in the county may establish within its boundaries, or 34764
the legislative authorities of a group of municipal corporations 34765
and townships each of which is contiguous to at least one of the 34766
other such municipal corporations or townships in the group may 34767
jointly establish within their boundaries, a 9-1-1 system. The 34768
municipal corporation or contiguous municipal corporations and 34769
townships, may enter into an agreement with a telephone company 34770
serving ~~customers~~ customers within the boundaries of the municipal 34771
corporation or contiguous municipal corporations and townships, to 34772
provide for the telephone network portion of a 9-1-1 system. 34773

(C) Whenever a telephone company and one or more municipal 34774
corporations and townships enter into an agreement under this 34775
section to provide for the telephone network portion of a basic 34776
9-1-1 system, the telephone company shall so notify the public 34777
utilities commission, which shall determine whether the telephone 34778
company is capable of reasonably meeting the technical and 34779
economic requirements of providing the telephone network for an 34780
enhanced system within the territory served by the company and 34781
covered by the agreement. The determination shall be made solely 34782

for the purposes of division (C)(2) of section 4931.47 of the Revised Code. 34783
34784

(D) Within three years from the date of entering into an agreement under division (A) or (B) of this section, the telephone company shall have installed the telephone network portion of the 9-1-1 system according to the terms, conditions, requirements, and specifications set forth in the agreement. 34785
34786
34787
34788
34789

(E) The telephone company shall recover the cost of installing the telephone network system pursuant to agreements made under this section as provided in ~~sections~~ section 4931.47 and 5727.39 of the Revised Code, as authorized under section 5733.55 of the Revised Code. 34790
34791
34792
34793
34794

Sec. 4973.17. (A) Upon the application of any bank, building and loan association, or association of banks or building and loan associations in this state, the governor may appoint and commission any persons that the bank, building and loan association, or association of banks or building and loan associations designates, or as many of those persons as the governor considers proper, to act as police officers for and on the premises of that bank, building and loan association, or association of banks or building and loan associations, or elsewhere, when directly in the discharge of their duties. Police officers so appointed shall be citizens of this state and of good character. They shall hold office for three years, unless, for good cause shown, their commission is revoked by the governor, or by the bank, building and loan association, or association of banks or building and loan associations, as provided by law. 34795
34796
34797
34798
34799
34800
34801
34802
34803
34804
34805
34806
34807
34808
34809

(B) Upon the application of a company owning or using a railroad in this state and subject to section 4973.171 of the Revised Code, the governor may appoint and commission any persons that the railroad company designates, or as many of those persons 34810
34811
34812
34813

as the governor considers proper, to act as police officers for 34814
and on the premises of the railroad company, its affiliates or 34815
subsidiaries, or elsewhere, when directly in the discharge of 34816
their duties. Police officers so appointed, within the time set by 34817
the Ohio peace officer training commission, shall successfully 34818
complete a commission approved training program and be certified 34819
by the commission. They shall hold office for three years, unless, 34820
for good cause shown, their commission is revoked by the governor, 34821
or railroad company, as provided by law. 34822

Any person holding a similar commission in another state may 34823
be commissioned and may hold office in this state without 34824
completing the approved training program required by this division 34825
provided that ~~that~~ the person has completed a substantially 34826
equivalent training program in the other state. The Ohio peace 34827
officer training commission shall determine whether a training 34828
program in another state meets the requirements of this division. 34829

(C) Upon the application of any company under contract with 34830
the United States atomic energy commission for the construction or 34831
operation of a plant at a site owned by ~~such~~ the commission, the 34832
governor may appoint and commission ~~such~~ persons ~~as~~ the company 34833
designates, not to exceed one hundred fifty, to act as police 34834
officers for the company at the plant or site owned by ~~such~~ the 34835
commission. Police officers so appointed shall be citizens of this 34836
state and of good character. They shall hold office for three 34837
years, unless, for good cause shown, their commission is revoked 34838
by the governor or by the company, as provided by law. 34839

(D)(1) Upon the application of any hospital that is operated 34840
by a public hospital agency or a nonprofit hospital agency and 34841
that employs and maintains its own proprietary police department 34842
or security department and subject to section 4973.171 of the 34843
Revised Code, the governor may appoint and commission any persons 34844
that the hospital designates, or as many of those persons as the 34845

governor considers proper, to act as police officers for the 34846
hospital. No person who is appointed as a police officer under 34847
this division shall engage in any duties or activities as a police 34848
officer for the hospital or any affiliate or subsidiary of the 34849
hospital unless all of the following apply: 34850

(a) The chief of police of the municipal corporation in which 34851
the hospital is located, or, if the hospital is located in the 34852
unincorporated area of a county, the sheriff of that county, has 34853
granted approval to the hospital to permit persons appointed as 34854
police officers under this division to engage in those duties and 34855
activities. The approval required by this division is general in 34856
nature and is intended to cover in the aggregate all persons 34857
appointed as police officers for the hospital under this division; 34858
a separate approval is not required for each appointee on an 34859
individual basis. 34860

(b) Subsequent to the grant of approval described in division 34861
(D)(1)(a) of this section, the hospital has entered into a written 34862
agreement with the chief of police of the municipal corporation in 34863
which the hospital is located, or, if the hospital is located in 34864
the unincorporated area of a county, with the sheriff of that 34865
county, that sets forth the standards and criteria to govern the 34866
interaction and cooperation between persons appointed as police 34867
officers for the hospital under this division and law enforcement 34868
officers serving the agency represented by the chief of police or 34869
sheriff who signed the agreement in areas of their concurrent 34870
jurisdiction. The written agreement shall be signed by the 34871
appointing authority of the hospital and by the chief of police or 34872
sheriff. The standards and criteria may include, but are not 34873
limited to, provisions governing the reporting of offenses 34874
discovered by hospital police officers to the agency represented 34875
by the chief of police or sheriff, provisions governing 34876
investigatory responsibilities relative to offenses committed on 34877

hospital property, and provisions governing the processing and 34878
confinement of persons arrested for offenses committed on hospital 34879
property. The agreement required by this division is intended to 34880
apply in the aggregate to all persons appointed as police officers 34881
for the hospital under this division; a separate agreement is not 34882
required for each appointee on an individual basis. 34883

(c) The person has successfully completed a training program 34884
approved by the Ohio peace officer training commission and has 34885
been certified by the commission. A person appointed as a police 34886
officer under this division may attend a training program approved 34887
by the commission and be certified by the commission regardless of 34888
whether the appropriate chief of police or sheriff has granted the 34889
approval described in division (D)(1)(a) of this section and 34890
regardless of whether the hospital has entered into the written 34891
agreement described in division (D)(1)(b) of this section with the 34892
appropriate chief of police or sheriff. 34893

(2)(a) A person who is appointed as a police officer under 34894
division (D)(1) of this section is entitled, upon the grant of 34895
approval described in division (D)(1)(a) of this section and upon 34896
~~that~~ the person's and the hospital's compliance with the 34897
requirements of divisions (D)(1)(b) and (c) of this section, to 34898
act as a police officer for the hospital on the premises of the 34899
hospital and of its affiliates and subsidiaries that are within 34900
the territory of the municipal corporation served by the chief of 34901
police or the unincorporated area of the county served by the 34902
sheriff who signed the written agreement described in division 34903
(D)(1)(b) of this section, whichever is applicable, and anywhere 34904
else within the territory of that municipal corporation or within 34905
the unincorporated area of that county. The authority to act as a 34906
police officer as described in this division is granted only if 34907
the person, when engaging in that activity, is directly in the 34908
discharge of ~~that~~ the person's duties as a police officer for the 34909

hospital. The authority to act as a police officer as described in 34910
this division shall be exercised in accordance with the standards 34911
and criteria set forth in the written agreement described in 34912
division (D)(1)(b) of this section. 34913

(b) Additionally, a person appointed as a police officer 34914
under division (D)(1) of this section is entitled, upon the grant 34915
of approval described in division (D)(1)(a) of this section and 34916
upon ~~that~~ the person's and the hospital's compliance with the 34917
requirements of divisions (D)(1)(b) and (c) of this section, to 34918
act as a police officer elsewhere, within the territory of a 34919
municipal corporation or within the unincorporated area of a 34920
county, if the chief of police of that municipal corporation or 34921
the sheriff of that county, respectively, has granted approval for 34922
that activity to the hospital, police department, or security 34923
department served by the person as a police officer and if the 34924
person, when engaging in that activity, is directly in the 34925
discharge of ~~that~~ the person's duties as a police officer for the 34926
hospital. The approval described in this division may be general 34927
in nature or may be limited in scope, duration, or applicability, 34928
as determined by the chief of police or sheriff granting the 34929
approval. 34930

(3) Police officers appointed under division (D)(1) of this 34931
section shall hold office for three years, unless, for good cause 34932
shown, their commission is revoked by the governor or by the 34933
hospital, as provided by law. As used in divisions (D)(1) to (3) 34934
of this section, "public hospital agency" and "nonprofit hospital 34935
agency" have the same ~~meaning~~ meanings as in section 140.01 of the 34936
Revised Code. 34937

(E) A fee of ~~five~~ fifteen dollars for each commission applied 34938
for under this section shall be paid at the time the application 34939
is made, and this amount shall be returned if for any reason a 34940
commission is not issued. 34941

Sec. 5101.11. This section does not apply to contracts 34942
entered into under section ~~5111.022~~, 5111.90~~7~~, or 5111.91 of the 34943
Revised Code. 34944

(A) As used in this section: 34945

(1) "Entity" includes an agency, board, commission, or 34946
department of the state or a political subdivision of the state; a 34947
private, nonprofit entity; a school district; a private school; or 34948
a public or private institution of higher education. 34949

(2) "Federal financial participation" means the federal 34950
government's share of expenditures made by an entity in 34951
implementing a program administered by the department of job and 34952
family services. 34953

(B) At the request of any public entity having authority to 34954
implement a program administered by the department of job and 34955
family services or any private entity under contract with a public 34956
entity to implement a program administered by the department, the 34957
department may seek to obtain federal financial participation for 34958
costs incurred by the entity. Federal financial participation may 34959
be sought from programs operated pursuant to Title IV-A, Title 34960
IV-E, and Title XIX of the "Social Security Act," 49 Stat. 620 34961
(1935), 42 U.S.C. 301, as amended; the "Food Stamp Act of 1964," 34962
78 Stat. 703, 7 U.S.C. 2011, as amended; and any other statute or 34963
regulation under which federal financial participation may be 34964
available, except that federal financial participation may be 34965
sought only for expenditures made with funds for which federal 34966
financial participation is available under federal law. 34967

(C) All funds collected by the department of job and family 34968
services pursuant to division (B) of this section shall be 34969
distributed to the entities that incurred the costs, except for 34970
any amounts retained by the department pursuant to division (D)(3) 34971

of this section. 34972

(D) In distributing federal financial participation pursuant 34973
to this section, the department may either enter into an agreement 34974
with the entity that is to receive the funds or distribute the 34975
funds in accordance with rules adopted under division (F) of this 34976
section. If the department decides to enter into an agreement to 34977
distribute the funds, the agreement may include terms that do any 34978
of the following: 34979

(1) Provide for the whole or partial reimbursement of any 34980
cost incurred by the entity in implementing the program; 34981

(2) In the event that federal financial participation is 34982
disallowed or otherwise unavailable for any expenditure, require 34983
the department of job and family services or the entity, whichever 34984
party caused the disallowance or unavailability of federal 34985
financial participation, to assume responsibility for the 34986
expenditures; 34987

(3) Permit the department to retain not more than five per 34988
cent of the amount of the federal financial participation to be 34989
distributed to the entity; 34990

(4) Require the public entity to certify the availability of 34991
sufficient unencumbered funds to match the federal financial 34992
participation it receives under this section; 34993

(5) Establish the length of the agreement, which may be for a 34994
fixed or a continuing period of time; 34995

(6) Establish any other requirements determined by the 34996
department to be necessary for the efficient administration of the 34997
agreement. 34998

(E) An entity that receives federal financial participation 34999
pursuant to this section for a program aiding children and their 35000
families shall establish a process for collaborative planning with 35001

the department of job and family services for the use of the funds 35002
to improve and expand the program. 35003

(F) The director of job and family services shall adopt rules 35004
as necessary to implement this section, including rules for the 35005
distribution of federal financial participation pursuant to this 35006
section. The rules shall be adopted in accordance with Chapter 35007
119. of the Revised Code. The director may adopt or amend any 35008
statewide plan required by the federal government for a program 35009
administered by the department, as necessary to implement this 35010
section. 35011

(G) Federal financial participation received pursuant to this 35012
section shall not be included in any calculation made under 35013
section 5101.16 or 5101.161 of the Revised Code. 35014

Sec. 5101.14. (A) As used in this section and section 35015
5101.144 of the Revised Code, "children services" means services 35016
provided to children pursuant to Chapter 5153. of the Revised 35017
Code. 35018

(B) Within available funds, the department of job and family 35019
services shall ~~make payments~~ distribute funds to the counties 35020
within thirty days after the beginning of each calendar quarter 35021
for a part of ~~their~~ the counties' costs for children services ~~to~~ 35022
~~children performed pursuant to Chapter 5153. of the Revised Code.~~ 35023

Funds provided to the county under this section shall be 35024
deposited into the children services fund created pursuant to 35025
section 5101.144 of the Revised Code. 35026

~~(B)(1) The funds distributed under this section shall be used~~ 35027
~~for the following:~~ 35028

~~(a) Home based services to children and families;~~ 35029

~~(b) Protective services to children;~~ 35030

~~(c) To find, develop, and approve adoptive homes;~~ 35031

~~(d) Short term, out of home care and treatment for children;~~ 35032

~~(e) Costs for the care of a child who resides with a
caretaker relative, other than the child's parent, and is in the
legal custody of a public children services agency pursuant to a
voluntary temporary custody agreement entered into under division
(A) of section 5103.15 of the Revised Code or in the legal custody
of a public children services agency or the caretaker relative
pursuant to an allegation or adjudication of abuse, neglect, or
dependency made under Chapter 2151. of the Revised Code;~~ 35033
35034
35035
35036
35037
35038
35039
35040

~~(f) Other services a public children services agency
considers necessary to protect children from abuse, neglect, or
dependency.~~ 35041
35042
35043

~~(2) No funds distributed under this section shall be used for
the costs of maintaining a child in a children's home owned and
operated by the county.~~ 35044
35045
35046

(C) In each fiscal year, the amount of funds available for 35047
distribution under this section shall be allocated to counties as 35048
follows: 35049

(1) If the amount is less than the amount initially 35050
appropriated for the immediately preceding fiscal year, each 35051
county shall receive an amount equal to the percentage of the 35052
funding it received in the immediately preceding fiscal year, 35053
exclusive of any releases from or additions to the allocation or 35054
any sanctions imposed under this section; 35055

(2) If the amount is equal to the amount initially 35056
appropriated for the immediately preceding fiscal year, each 35057
county shall receive an amount equal to the amount it received in 35058
the preceding fiscal year, exclusive of any releases from or 35059
additions to the allocation or any sanctions imposed under this 35060
section; 35061

(3) If the amount is greater than the amount initially 35062
appropriated for the immediately preceding fiscal year, each 35063
county shall receive the amount determined under division (C)(2) 35064
of this section as a base allocation, plus a percentage of the 35065
amount that exceeds the amount initially appropriated for the 35066
immediately preceding fiscal year. The amount exceeding the amount 35067
initially appropriated in the immediately preceding fiscal year 35068
shall be allocated to the counties as follows: 35069

(a) Twelve per cent divided equally among all counties; 35070

(b) Forty-eight per cent in the ratio that the number of 35071
residents of the county under the age of eighteen bears to the 35072
total number of such persons residing in this state; 35073

(c) Forty per cent in the ratio that the number of residents 35074
of the county with incomes under the federal poverty guideline 35075
bears to the total number of such persons in this state. 35076

As used in division (C)(3)(c) of this section, "federal 35077
poverty guideline" means the poverty guideline as defined by the 35078
United States office of management and budget and revised by the 35079
United States secretary of health and human services in accordance 35080
with section 673 of the "Community Services Block Grant Act," 95 35081
Stat. 511 (1981), 42 U.S.C.A. 9902, as amended. 35082

~~(D) The director of job and family services may adopt rules 35083
as necessary for the allocation of funds under this section. The 35084
rules shall be adopted in accordance with section 111.15 of the 35085
Revised Code. 35086~~

~~(E)(1) As used in this division, "services to children" means 35087
children's protective services, home based services to children 35088
and families, foster home services, residential treatment 35089
services, adoptive services, and independent living services. 35090~~

~~(2) Except as otherwise provided in this section, the 35091~~

~~allocation of funds for a fiscal year to a county under this 35092
section shall be reduced by the department if in the preceding 35093
calendar year the total amount expended for services to children 35094
from local funds was less than the total expended from that source 35095
in the second preceding calendar year. The reduction shall be 35096
equal to the difference between the total expended in the 35097
preceding calendar year and the total expended in the second 35098
preceding calendar year. 35099~~

~~The determination of whether the amount expended for services 35100
to children was less in the preceding calendar year than in the 35101
second preceding calendar year shall not include a difference due 35102
to any of the following factors to the extent that the difference 35103
does not exceed the amount attributable to that factor: 35104~~

~~(a) An across the board reduction in the county budget as a 35105
whole; 35106~~

~~(b) A reduced or failed levy specifically earmarked for 35107
children services; 35108~~

~~(c) The closure of, or a reduction in the operating capacity 35109
of, a children's home owned and operated by the county. 35110~~

~~(3) Funds withheld under this division may be reallocated by 35111
the department to other counties. The department may grant whole 35112
or partial waivers of the provisions of this division. 35113~~

~~(F) Children who are in the temporary or permanent custody of 35114
a certified public or private nonprofit agency or institution, or 35115
who are in adoptions subsidized under division (B) of section 35116
5153.163 of the Revised Code are eligible for medical assistance 35117
through the medical assistance program established under section 35118
5111.01 of the Revised Code. 35119~~

~~(G) Within ninety days after the end of each state fiscal 35120
year biennium, each county shall return any unspent funds to the 35121
department. 35122~~

~~(H) In accordance with Chapter 119. of the Revised Code, the~~ 35123
~~(E) The director shall of job and family services may adopt, and~~ 35124
~~may amend and rescind, the following rules in accordance with~~ 35125
section 111.15 of the Revised Code: 35126

(1) Rules that are necessary for the allocation of funds 35127
under this section; 35128

(2) Rules prescribing reports on expenditures to be submitted 35129
by the counties as necessary for the implementation of this 35130
section. 35131

Sec. 5101.141. (A) As used in sections 5101.141 to 5101.1410 35132
of the Revised Code, "Title IV-E" means Title IV-E of the "Social 35133
Security Act," 94 Stat. 501, 42 U.S.C. 670 (1980), as amended. 35134

(B) The department of job and family services shall act as 35135
the single state agency to administer federal payments for foster 35136
care and adoption assistance made pursuant to Title IV-E ~~of the~~ 35137
~~"Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as~~ 35138
~~amended.~~ The director of job and family services shall adopt rules 35139
to implement this authority. Internal management rules governing 35140
financial and administrative requirements applicable to public 35141
children services agencies, ~~private child placing agencies, and~~ 35142
~~private noncustodial agencies~~ government entities that provide 35143
Title IV-E reimbursable placement services to children shall be 35144
adopted in accordance with section 111.15 of the Revised Code. 35145
Rules governing requirements applicable to private child placing 35146
agencies and private noncustodial agencies and rules establishing 35147
eligibility, program participation, and other requirements 35148
concerning Title IV-E shall be adopted in accordance with Chapter 35149
119. of the Revised Code. A public children services agency to 35150
which the department distributes Title IV-E funds shall administer 35151
the funds in accordance with those rules. 35152

~~(B)~~(C)(1) The county, on behalf of each child eligible for foster care maintenance payments under Title IV-E of the "~~Social Security Act~~," shall make payments to cover the cost of providing all of the following:

(a) The child's food, clothing, shelter, daily supervision, and school supplies;

(b) The child's personal incidentals;

(c) Reasonable travel to the child's home for visitation.

(2) In addition to payments made under division ~~(B)~~(C)(1) of this section, the county may, on behalf of each child eligible for foster care maintenance payments under Title IV-E of the "~~Social Security Act~~," make payments to cover the cost of providing the following:

(a) Liability insurance with respect to the child;

(b) If the county is participating in the demonstration project established under division (A) of section 5101.142 of the Revised Code, services provided under the project.

(3) With respect to a child who is in a child-care institution, including any type of group home designed for the care of children or any privately operated program consisting of two or more certified foster homes operated by a common administrative unit, the foster care maintenance payments made by the county on behalf of the child shall include the reasonable cost of the administration and operation of the institution, group home, or program, as necessary to provide the items described in divisions ~~(B)~~(C)(1) and (2) of this section.

~~(C)~~(D) To the extent that either foster care maintenance payments under division ~~(B)~~ (C) of this section or Title IV-E adoption assistance payments for maintenance costs require the expenditure of county funds, the board of county commissioners

shall report the nature and amount of each expenditure of county funds to the department. 35183
35184

~~(D)~~(E) The department shall distribute to public children services agencies that incur and report such expenditures federal financial participation received for administrative and training costs incurred in the operation of foster care maintenance and adoption assistance programs. The department may withhold not more than three per cent of the federal financial participation received. The funds withheld may be used only to fund the Ohio child welfare training program established under section 5153.60 of the Revised Code and the university partnership program for college and university students majoring in social work who have committed to work for a public children services agency upon graduation. The funds withheld shall be in addition to any administration and training cost for which the department is reimbursed through its own cost allocation plan. 35185
35186
35187
35188
35189
35190
35191
35192
35193
35194
35195
35196
35197
35198

~~(E)~~(F) All federal financial participation funds received by a county pursuant to this section shall be deposited into the county's children services fund created pursuant to section 5101.144 of the Revised Code. 35199
35200
35201
35202

~~(F)~~(G) The department shall periodically publish and distribute the maximum amounts that the department will reimburse public children services agencies for making payments on behalf of children eligible for foster care maintenance payments. 35203
35204
35205
35206

~~(G)~~(H) The department, by and through its director, is hereby authorized to develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this state with agencies of any other states, for the provision of medical assistance and other social services to children in relation to whom all of the following apply: 35207
35208
35209
35210
35211
35212

(1) They have special needs. 35213

(2) This state or another state that is a party to the interstate compact is providing adoption assistance on their behalf. 35214
35215
35216

(3) They move into this state from another state or move out of this state to another state. 35217
35218

Sec. 5101.142. (A) The department of job and family services may apply to the United States secretary of health and human services for a waiver of requirements established under Title IV-E of the ~~"Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980)~~, or regulations adopted thereunder, to conduct a demonstration project expanding eligibility for and services provided under Title IV-E. The department may enter into agreements with the secretary necessary to implement the demonstration project, including agreements establishing the terms and conditions of the waiver authorizing the project. If a demonstration project is to be established, the department shall do all of the following: 35219
35220
35221
35222
35223
35224
35225
35226
35227
35228
35229
35230

(1) Have the director of job and family services adopt rules in accordance with Chapter 119. of the Revised Code governing the project. The rules shall be consistent with the agreements the department enters into with the secretary. 35231
35232
35233
35234

(2) Enter into agreements with public children services agencies that the department selects for participation in the project. The department shall not select an agency that objects to participation or refuses to be bound by the terms and conditions of the project. 35235
35236
35237
35238
35239

(3) Contract with persons or governmental agencies providing services under the project; 35240
35241

(4) Amend the state plan required by section 471 of the "Social Security Act," 42 U.S.C.A. 671, as amended, as needed to 35242
35243

implement the project; 35244

(5) Conduct ongoing evaluations of the project; 35245

(6) Perform other administrative and operational activities 35246
required by the agreement with the secretary. 35247

(B) The department may apply to the United States secretary 35248
of health and human services for a waiver of the requirements 35249
established under Title IV-B of the "Social Security Act of 1967," 35250
81 Stat. 821, 42 U.S.C.A. 620 or regulations adopted thereunder 35251
and established under any other federal law or regulations that 35252
affect the children services functions prescribed by Chapter 5153. 35253
of the Revised Code, to conduct demonstration projects or 35254
otherwise improve the effectiveness and efficiency of the children 35255
services function. 35256

~~Sec. 5101.144. As used in this section, "children services"~~ 35257
~~means services provided to children pursuant to Chapter 5153. of~~ 35258
~~the Revised Code.~~ 35259

Each county shall deposit all funds its public children 35260
services agency receives from appropriations made by the board of 35261
county commissioners or any other source for the purpose of 35262
providing children services into a special fund in the county 35263
treasury known as the children services fund. A county shall use 35264
money in the fund only for the purposes of meeting the expenses of 35265
providing children services. 35266

~~Sec. 5101.145. (A) For the purposes of this section, "Title~~ 35267
~~IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501,~~ 35268
~~42 U.S.C.A. 670 (1980).~~ 35269

~~(B)~~ In adopting rules under section 5101.141 of the Revised 35270
Code regarding financial requirements applicable to public 35271
children services agencies, private child placing agencies, ~~and~~ 35272
private noncustodial agencies, and government entities that 35273

provide Title IV-E reimbursable placement services to children, 35274
the department of job and family services shall establish both of 35275
the following: 35276

(1) A single form for the agencies or entities to report 35277
costs reimbursable under Title IV-E and costs reimbursable under 35278
medicaid; 35279

(2) Procedures to monitor cost reports submitted by the 35280
agencies or entities. 35281

~~(C)~~(B) The procedures established under division ~~(B)~~(A)(2) of 35282
this section shall be implemented not later than October 1, 2003. 35283
The procedures shall be used to do both of the following: 35284

(1) Determine which of the costs are reimbursable under Title 35285
IV-E; 35286

(2) Ensure that costs reimbursable under medicaid are 35287
excluded from determinations made under division ~~(C)~~(B)(1) of this 35288
section. 35289

Sec. 5101.146. The department of job and family services 35290
shall establish the following penalties, which shall be enforced 35291
at the discretion of the department, for the failure of a public 35292
children services agency, private child placing agency, ~~or~~ private 35293
noncustodial agency, or government entity that provides Title IV-E 35294
reimbursable placement services to children to comply with 35295
procedures the department establishes to ensure fiscal 35296
accountability: 35297

(A) For initial failure, the department and the agency or 35298
entity involved shall jointly develop and implement a corrective 35299
action plan according to a specific schedule. If requested by the 35300
agency or entity involved, the department shall provide technical 35301
assistance to the agency or entity to ensure the fiscal 35302
accountability procedures and goals of the plan are met. 35303

(B) For subsequent failures or failure to achieve the goals 35304
of the plan described in division (A) of this section, ~~either~~ one 35305
of the following: 35306

(1) For public children services agencies, the department may 35307
take any action permitted under division ~~(B)~~(C)(3), (4), or (5) of 35308
section 5101.24 of the Revised Code. 35309

(2) For private child placing agencies or private 35310
noncustodial agencies, cancellation of any Title IV-E allowability 35311
rates for the agency involved pursuant to section 5101.141 of the 35312
Revised Code or revocation pursuant to Chapter 119. of the Revised 35313
Code of that agency's certificate issued under section 5103.03 of 35314
the Revised Code; 35315

(3) For government entities, other than public children 35316
services agencies, that provide Title IV-E reimbursable placement 35317
services to children, cancellation of any Title IV-E allowability 35318
rates for the entity involved pursuant to section 5101.141 of the 35319
Revised Code. 35320

Sec. 5101.1410. In addition to the remedies available under 35321
sections 5101.146 and 5101.24 of the Revised Code, the department 35322
of job and family services may certify a claim to the attorney 35323
general under section 131.02 of the Revised Code for the attorney 35324
general to take action under that section against a public 35325
children services agency, private child placing agency, private 35326
noncustodial agency, or government entity that provides Title IV-E 35327
reimbursable placement services to children if all of the 35328
following are the case: 35329

(A) The agency or entity files a cost report with the 35330
department pursuant to rules adopted under division (B) of section 35331
5101.141 of the Revised Code. 35332

(B) The department receives and distributes federal Title 35333

<u>IV-E reimbursement funds based on the cost report.</u>	35334
<u>(C) The agency's or entity's misstatement, misclassification,</u>	35335
<u>overstatement, understatement, or other inclusion or omission of</u>	35336
<u>any cost included in the cost report causes the United States</u>	35337
<u>department of health and human services to disallow all or part of</u>	35338
<u>the federal Title IV-E reimbursement funds the department received</u>	35339
<u>and distributed.</u>	35340
Sec. 5101.16. (A) As used in this section and sections	35341
5101.161 and 5101.162 of the Revised Code:	35342
(1) "Disability <u>financial</u> assistance" means <u>the financial and</u>	35343
medical assistance provided <u>program established</u> under Chapter	35344
5115. of the Revised Code.	35345
(2) " <u>Disability medical assistance</u> " means <u>the medical</u>	35346
<u>assistance program established under Chapter 5115. of the Revised</u>	35347
<u>Code.</u>	35348
(3) "Food stamps" means the program administered by the	35349
department of job and family services pursuant to section 5101.54	35350
of the Revised Code.	35351
(3) (4) "Medicaid" means the medical assistance program	35352
established by Chapter 5111. of the Revised Code, excluding	35353
transportation services provided under that chapter.	35354
(4) (5) "Ohio works first" means the program established by	35355
Chapter 5107. of the Revised Code.	35356
(5) (6) "Prevention, retention, and contingency" means the	35357
program established by Chapter 5108. of the Revised Code.	35358
(6) (7) "Public assistance expenditures" means expenditures	35359
for all of the following:	35360
(a) Ohio works first;	35361
(b) County administration of Ohio works first;	35362

(c) Prevention, retention, and contingency;	35363
(d) County administration of prevention, retention, and contingency;	35364 35365
(e) Disability <u>financial</u> assistance;	35366
(f) <u>Disability medical assistance</u> ;	35367
(g) County administration of disability <u>financial</u> assistance;	35368
(g) (h) <u>County administration of disability medical assistance</u> ;	35369 35370
(i) County administration of food stamps;	35371
(h) (j) County administration of medicaid.	35372
(7) <u>"Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.</u>	35373 35374
(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:	35375 35376 35377 35378 35379 35380
(1) The amount that is twenty-five per cent of the county's total expenditures for disability <u>financial assistance and disability medical</u> assistance and county administration of disability assistance <u>those programs</u> during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.	35381 35382 35383 35384 35385 35386
(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of food stamps and medicaid during the state fiscal year ending in the previous calendar year that the department determines are allowable, less	35387 35388 35389 35390 35391

the amount of federal reimbursement credited to the county under 35392
division (E) of this section for the state fiscal year ending in 35393
the previous calendar year; 35394

~~(3)(a) Except as provided in division (B)(3)(b) of this 35395
section, A percentage of the actual amount, as determined by the 35396
department of job and family services from expenditure reports 35397
submitted to the United States department of health and human 35398
services, of the county share of program and administrative 35399
expenditures during federal fiscal year 1994 for assistance and 35400
services, other than child day-care, provided under Titles IV-A 35401
and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 35402
U.S.C. 301, as those titles existed prior to the enactment of the 35403
"Personal Responsibility and Work Opportunity Reconciliation Act 35404
of 1996," 110 Stat. 2105. The department of job and family 35405
services shall determine the actual amount of the county share 35406
from expenditure reports submitted to the United States department 35407
of health and human services. The percentage shall be the 35408
percentage established in rules adopted under division (F) of this 35409
section. 35410~~

~~(b) For state fiscal years 2000 and 2001, seventy seven per 35411
cent of the amount determined under division (B)(3)(a) of this 35412
section. 35413~~

(C)(1) If a county's share of public assistance expenditures 35414
determined under division (B) of this section for a state fiscal 35415
year exceeds one hundred ten per cent of the county's share for 35416
those expenditures for the immediately preceding state fiscal 35417
year, the department of job and family services shall reduce the 35418
county's share for expenditures under divisions (B)(1) and (2) of 35419
this section so that the total of the county's share for 35420
expenditures under division (B) of this section equals one hundred 35421
ten per cent of the county's share of those expenditures for the 35422
immediately preceding state fiscal year. 35423

(2) A county's share of public assistance expenditures 35424
determined under division (B) of this section may be increased 35425
pursuant to a sanction under section 5101.24 of the Revised Code. 35426

(D)(1) If the per capita tax duplicate of a county is less 35427
than the per capita tax duplicate of the state as a whole and 35428
division (D)(2) of this section does not apply to the county, the 35429
percentage to be used for the purpose of division (B)(2) of this 35430
section is the product of ten multiplied by a fraction of which 35431
the numerator is the per capita tax duplicate of the county and 35432
the denominator is the per capita tax duplicate of the state as a 35433
whole. The department of job and family services shall compute the 35434
per capita tax duplicate for the state and for each county by 35435
dividing the tax duplicate for the most recent available year by 35436
the current estimate of population prepared by the department of 35437
development. 35438

(2) If the percentage of families in a county with an annual 35439
income of less than three thousand dollars is greater than the 35440
percentage of such families in the state and division (D)(1) of 35441
this section does not apply to the county, the percentage to be 35442
used for the purpose of division (B)(2) of this section is the 35443
product of ten multiplied by a fraction of which the numerator is 35444
the percentage of families in the state with an annual income of 35445
less than three thousand dollars a year and the denominator is the 35446
percentage of such families in the county. The department of job 35447
and family services shall compute the percentage of families with 35448
an annual income of less than three thousand dollars for the state 35449
and for each county by multiplying the most recent estimate of 35450
such families published by the department of development, by a 35451
fraction, the numerator of which is the estimate of average annual 35452
personal income published by the bureau of economic analysis of 35453
the United States department of commerce for the year on which the 35454
census estimate is based and the denominator of which is the most 35455

recent such estimate published by the bureau. 35456

(3) If the per capita tax duplicate of a county is less than 35457
the per capita tax duplicate of the state as a whole and the 35458
percentage of families in the county with an annual income of less 35459
than three thousand dollars is greater than the percentage of such 35460
families in the state, the percentage to be used for the purpose 35461
of division (B)(2) of this section shall be determined as follows: 35462

(a) Multiply ten by the fraction determined under division 35463
(D)(1) of this section; 35464

(b) Multiply the product determined under division (D)(3)(a) 35465
of this section by the fraction determined under division (D)(2) 35466
of this section. 35467

(4) The department of job and family services shall 35468
determine, for each county, the percentage to be used for the 35469
purpose of division (B)(2) of this section not later than the 35470
first day of July of the year preceding the state fiscal year for 35471
which the percentage is used. 35472

(E) The department of job and family services shall credit to 35473
a county the amount of federal reimbursement the department 35474
receives from the United States departments of agriculture and 35475
health and human services for the county's expenditures for 35476
administration of food stamps and medicaid that the department 35477
determines are allowable administrative expenditures. 35478

(F)(1) The director of job and family services shall adopt 35479
rules in accordance with section 111.15 of the Revised Code to 35480
establish all of the following: 35481

~~(1)~~(a) The method the department is to use to change a 35482
county's share of public assistance expenditures determined under 35483
division (B) of this section as provided in division (C) of this 35484
section; 35485

~~(2)(b)~~ The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section; 35486
35487
35488

~~(3)(c)~~ The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis; 35489
35490
35491

~~(4)(d)~~ The percentage to be used for the purpose of division (B)(3) of this section, which shall not be less than seventy-five per cent nor more than eighty-two per cent; 35492
35493
35494

~~(e)~~ Other procedures and requirements necessary to implement this section. 35495
35496

(2) The director of job and family services may amend the rule adopted under division (F)(1)(d) of this section to modify the percentage on determination that the amount the general assembly appropriates for Title IV-A programs makes the modification necessary. The rule shall be adopted and amended as if an internal management rule and in consultation with the director of budget and management. 35497
35498
35499
35500
35501
35502
35503

Sec. 5101.162. The Subject to available federal funds and appropriations made by the general assembly, the department of job and family services may, at its sole discretion, use available federal funds to reimburse county expenditures for county administration of food stamps or medicaid even though the county expenditures meet or exceed the maximum allowable reimbursement amount established by rules adopted under section 5101.161 of the Revised Code if the board of county commissioners has ~~not~~ entered into a ~~partnership~~ fiscal agreement with the director of job and family services under section 5101.21 of the Revised Code. The director may adopt internal management rules in accordance with section 111.15 of the Revised Code to implement this section. 35504
35505
35506
35507
35508
35509
35510
35511
35512
35513
35514
35515

Sec. 5101.18. (A) When the director of job and family services adopts rules under section 5107.05 regarding income requirements for the Ohio works first program and under section ~~5115.05~~ 5115.03 of the Revised Code regarding income and resource requirements for the disability financial assistance program, the director shall determine what payments shall be regarded or disregarded. In making this determination, the director shall consider:

(1) The source of the payment;

(2) The amount of the payment;

(3) The purpose for which the payment was made;

(4) Whether regarding the payment as income would be in the public interest;

(5) Whether treating the payment as income would be detrimental to any of the programs administered in whole or in part by the department of job and family services and whether such determination would jeopardize the receipt of any federal grant or payment by the state or any receipt of aid under Chapter 5107. of the Revised Code.

(B) Any recipient of aid under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, whose money payment is discontinued as the result of a general increase in old-age, survivors, and disability insurance benefits under such act, shall remain a recipient for the purpose of receiving medical assistance through the medical assistance program established under section 5111.01 of the Revised Code.

Sec. 5101.181. (A) As used in this section and section 5101.182 of the Revised Code, "public assistance" includes, in addition to Ohio works first; ~~prevention~~, all of the following:

<u>(1) Prevention retention, and contingency; medicaid</u>	35545
<u>(2) Medicaid; and disability</u>	35546
<u>(3) Disability financial assistance, general;</u>	35547
<u>(4) Disability medical assistance;</u>	35548
<u>(5) General</u> assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.	35549 35550
(B) As part of the procedure for the determination of overpayment to a recipient of public assistance under Chapter 5107., 5108., 5111., or 5115. of the Revised Code, the director of job and family services shall furnish quarterly the name and social security number of each individual who receives public assistance to the director of administrative services, the administrator of the bureau of workers' compensation, and each of the state's retirement boards. Within fourteen days after receiving the name and social security number of an individual who receives public assistance, the director of administrative services, administrator, or board shall inform the auditor of state as to whether such individual is receiving wages or benefits, the amount of any wages or benefits being received, the social security number, and the address of the individual. The director of administrative services, administrator, boards, and any agent or employee of those officials and boards shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.	35551 35552 35553 35554 35555 35556 35557 35558 35559 35560 35561 35562 35563 35564 35565 35566 35567 35568 35569 35570 35571 35572
(C) The auditor of state may enter into a reciprocal agreement with the director of job and family services or comparable officer of any other state for the exchange of names,	35573 35574 35575

current or most recent addresses, or social security numbers of 35576
persons receiving public assistance under Title IV-A or under 35577
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 35578
U.S.C. 301, as amended. 35579

(D)(1) The auditor of state shall retain, for not less than 35580
two years, at least one copy of all information received under 35581
this section and sections 145.27, 742.41, 3307.20, 3309.22, 35582
4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor 35583
shall review the information to determine whether overpayments 35584
were made to recipients of public assistance under Chapters 5107., 35585
5108., 5111., and 5115. of the Revised Code. The auditor of state 35586
shall initiate action leading to prosecution, where warranted, of 35587
recipients who received overpayments by forwarding the name of 35588
each recipient who received overpayment, together with other 35589
pertinent information, to the director of job and family services 35590
and the attorney general, to the district director of job and 35591
family services of the district through which public assistance 35592
was received, and to the county director of job and family 35593
services and county prosecutor of the county through which public 35594
assistance was received. 35595

(2) The auditor of state and the attorney general or their 35596
designees may examine any records, whether in computer or printed 35597
format, in the possession of the director of job and family 35598
services or any county director of job and family services. They 35599
shall provide safeguards which restrict access to such records to 35600
purposes directly connected with an audit or investigation, 35601
prosecution, or criminal or civil proceeding conducted in 35602
connection with the administration of the programs and shall 35603
comply with the rules of the director of job and family services 35604
restricting the disclosure of information regarding recipients of 35605
public assistance. Any person who violates this provision shall 35606
thereafter be disqualified from acting as an agent or employee or 35607

in any other capacity under appointment or employment of any state board, commission, or agency.

(3) Costs incurred by the auditor of state in carrying out the auditor of state's duties under this division shall be borne by the auditor of state.

~~Sec. 5101.21. (A) As used in sections 5101.21 to 5101.24 of the Revised Code, "workforce development agency" and "workforce development activity" have the same meanings as in section 6301.01 of the Revised Code.~~

~~(B) The director of job and family services shall enter into a one or more written partnership agreement fiscal agreements with each board of county commissioners.~~

~~(C)(1) Each partnership agreement shall include provisions regarding the administration and design of all of the following:~~

~~(a) The Ohio works first program established under Chapter 5107. of the Revised Code;~~

~~(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;~~

~~(c) Duties assumed by a county department of job and family services pursuant to an agreement entered into under section 329.05 of the Revised Code;~~

~~(d) Any other county department of job and family services' duties that the director and board mutually agree to include in the agreement;~~

~~(e) If, for the purpose of Chapter 6301. of the Revised Code, the county the board serves is a local area defined in division (A)(2) or (3) of section 6301.01 of the Revised Code, workforce development activities provided by the workforce development agency established or designated for the local area.~~

~~(2) Each partnership agreement may include provisions regarding the administration and design of the duties of child support enforcement agencies and public children services agencies included in a plan of cooperation entered into under section 307.983 of the Revised Code that the director and board mutually agree to include in the agreement.~~

~~(D) Family services duties and workforce development activities included in a partnership agreement shall be vested in the board of county commissioners. The agreement shall comply with federal statutes and regulations, state statutes, and, except as provided in division (D)(9) of this section, state rules governing the family services duties or workforce development activities included in the agreement.~~

~~A partnership under which financial assistance is awarded for family services duties included in the agreements. A fiscal agreement shall include responsibilities that the state department of job and family services, county family services agencies administering family services duties included in the agreement, and workforce development agencies administering workforce development activities included in the agreement must satisfy. The agreement shall establish, specify, or provide for do all of the following:~~

~~(1) Requirements governing the administration and design of, and county family services agencies' or workforce development agencies' cooperation to enhance, family services duties or workforce development activities included in the agreement Specify the family services duties included in the agreement and the private and government entities designated under section 307.981 of the Revised Code to serve as the county family services agencies performing the family services duties;~~

~~(2) Outcomes that county family services agencies or~~

~~workforce development agencies are expected to achieve from the~~ 35668
~~administration and design of family services duties or workforce~~ 35669
~~development activities included in the agreement and assistance,~~ 35670
~~services, and technical support the state department will provide~~ 35671
~~the county family services agencies or workforce development~~ 35672
~~agencies to aid the agencies in achieving the expected outcomes~~ 35673
Provide for the department of job and family services to award 35674
financial assistance for the family services duties included in 35675
the agreement in accordance with a methodology for determining the 35676
amount of the award established by rules adopted under division 35677
(C) of this section; 35678

(3) ~~Performance and other administrative standards county~~ 35679
~~family services agencies or workforce development agencies are~~ 35680
~~required to meet in the design, administration, and outcomes of~~ 35681
~~family services duties or workforce development activities~~ 35682
~~included in the agreement and assistance, services, and technical~~ 35683
~~support the state department will provide the county family~~ 35684
~~services agencies or workforce development agencies to aid the~~ 35685
~~agencies in meeting the performance and other administrative~~ 35686
~~standards~~ Specify the form of the award of financial assistance 35687
which may be an allocation, cash draw, reimbursement, or, to the 35688
extent authorized by an appropriation made the general assembly 35689
and to the extent practicable and not in conflict with a federal 35690
or state law, a consolidated funding allocation for two or more 35691
family services duties included in the agreement; 35692

(4) ~~Criteria and methodology the state department will use to~~ 35693
~~evaluate whether expected outcomes are achieved and performance~~ 35694
~~and other administrative standards are met and county family~~ 35695
~~services agencies or workforce development agencies will use to~~ 35696
~~evaluate whether the state department is providing agreed upon~~ 35697
~~assistance, services, and technical support~~ Provide that the award 35698
of financial assistance is subject to the availability of federal 35699

funds and appropriations made by the general assembly; 35700

(5) ~~Annual~~ Specify annual financial, administrative, or other 35701
incentive awards, if any, to be provided in accordance with 35702
section 5101.23 of the Revised Code; 35703

(6) ~~The state~~ Include the board of county commissioners' 35704
assurance that the board will do all of the following: 35705

(a) Ensure that the financial assistance awarded under the 35706
agreement is used, and the family services duties included in the 35707
agreement are performed, in accordance with requirements for the 35708
duties established by the department or any of the following: a 35709
federal or state law, state plan for receipt of federal financial 35710
participation, grant agreement between the department and a 35711
federal agency, or executive order; 35712

(b) Ensure that the board and county family services agencies 35713
utilize a financial management system and other accountability 35714
mechanisms for the financial assistance awarded under the 35715
agreement that meet requirements the department establishes; 35716

(c) Require the county family services agencies to do both of 35717
the following: 35718

(i) Monitor all private and government entities that receive 35719
a payment from financial assistance awarded under the agreement to 35720
ensure that each entity uses the payment in accordance with 35721
requirements for the family services duties included in the 35722
agreement; 35723

(ii) Take action to recover payments that are not used in 35724
accordance with the requirements for the family services duties 35725
included in the agreement. 35726

(d) Require county family services agencies to promptly 35727
reimburse the department the amount that represents the amount an 35728
agency is responsible for of funds the department pays to any 35729

entity because of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty; 35730
35731
35732

(e) Require county family services agencies to take prompt corrective action if the department, auditor of state, federal agency, or other entity authorized by federal or state law to determine compliance with requirements for a family services duty included in the agreement determines compliance has not been achieved; 35733
35734
35735
35736
35737
35738

(f) If the department establishes a consolidated funding allocation for two or more family services duties included in the agreement, require the county family services agencies to use funds available in the consolidated funding allocation only for the purpose for which the funds are appropriated. 35739
35740
35741
35742
35743

(7) Provide for the department taking action pursuant to division (C) of section 5101.24 of the Revised Code if authorized by division (B)(1), (2), ~~or~~ (3), or (4) of that section applies; 35744
35745
35746

~~(7) The funding of family services duties or workforce development activities included in the agreement and whether the state department will establish a consolidated funding allocation under division (E) of this section. The agreement shall either specify the amount of payments to be made for the family services duties or workforce development activities included in the agreement or the method that will be used to determine the amount of payments.~~ 35747
35748
35749
35750
35751
35752
35753
35754

(8) ~~Audits~~ Provide for audits required by federal ~~statutes~~ and regulations and state law and ~~requirements for~~ require prompt release of audit findings and prompt action to correct problems identified in an audit; 35755
35756
35757
35758

(9) ~~Which, if any, of the state department's rules will be waived so that a policy provided for in the agreement may be~~ 35759
35760

~~implemented~~ Comply with all of the requirements for the family 35761
services duties that are included in the agreement and have been 35762
established by the department or any of the following: federal or 35763
state law, state plans for receipt of federal financial 35764
participation, grant agreements between the department and a 35765
federal agency, or executive orders; 35766

(10) ~~The~~ Establish the method of amending or terminating the 35767
agreement and an expedited process for correcting terms or 35768
conditions of the agreement that the director and board of county 35769
commissioners agree are erroneous; 35770

(11) ~~Dispute resolution procedures for anticipated and~~ 35771
~~unanticipated disputes. The agreement may establish different~~ 35772
~~dispute resolution procedures for different types of disputes.~~ 35773
~~Dispute resolution procedures may include negotiation, mediation,~~ 35774
~~arbitration, adjudication conducted by a hearing officer or~~ 35775
~~fact finding panel, and other procedures.~~ 35776

~~(12) The~~ Specify the date the agreement is to commence ~~or~~ and 35777
~~end. An agreement may not commence before it is entered into nor~~ 35778
~~end later than the last day of the state fiscal biennium for which~~ 35779
~~it is entered into.~~ 35780

~~(13) If workforce development activities are included in the~~ 35781
~~agreement, all of the following:~~ 35782

~~(a) The workforce development plan prepared under section~~ 35783
~~6301.07 of the Revised Code to be attached to and incorporated~~ 35784
~~into the agreement;~~ 35785

~~(b) A description of the services, and a list of the core~~ 35786
~~services, provided in the one stop system for workforce~~ 35787
~~development activities the county served by the board participates~~ 35788
~~in under section 6301.06 of the Revised Code to be included in the~~ 35789
~~agreement;~~ 35790

~~(c) If the county served by the board of county commissioners~~ 35791

~~is in the type of local area defined in division (A)(3) of section 35792
6301.01 of the Revised Code, the method and manner by which the 35793
board of county commissioners of each county and the chief elected 35794
official of a municipal corporation in the local area shall 35795
coordinate workforce development activities and resolve 35796
disagreements concerning either of the following: 35797~~

~~(i) Choices concerning specifically who to appoint to the 35798
workforce policy board created under section 6301.06 of the 35799
Revised Code, within the criteria for membership set forth in that 35800
section; 35801~~

~~(ii) Whether a member of the workforce policy board is 35802
performing satisfactorily for purposes of serving at the pleasure 35803
of the chief elected officials of the local area. 35804~~

~~(14) Other provisions determined necessary by the state 35805
department, board, county family services agency, and workforce 35806
development agency. 35807~~

~~(E)(B) The state department shall make payments authorized by 35808
a partnership fiscal agreement on vouchers it prepares and may 35809
include any funds appropriated or allocated to it for carrying out 35810
family services duties ~~or workforce development activities vested~~ 35811
~~in the board of county commissioners under~~ included in the 35812
agreement, including funds for personal services and maintenance. 35813~~

~~(F)(1) To the extent practicable and not in conflict with 35814
federal statutes or regulations, state law, or an appropriation 35815
made by the general assembly, the director may establish a 35816
consolidated funding allocation for any of the following: 35817~~

~~(a) Two or more family services duties included in the 35818
agreement; 35819~~

~~(b) Two or more workforce development activities included in 35820
the agreement; 35821~~

(c) One or more family services duties and workforce development activities included in the agreement.	35822
(2) The consolidated funding allocation may be for either of the following:	35823
(a) A county that is the type of local area defined in division (A)(2) of section 6301.01 of the Revised Code;	35824
(b) Two or more counties, or a municipal corporation and one or more counties, in the type of local area defined in division (A)(3) of section 6301.01 of the Revised Code that are coordinating and integrating workforce development activities in the local area.	35825
(3) A county family services agency or workforce development agency shall use funds available in a consolidated funding allocation only for the purpose for which the funds were appropriated.	35826
(C)(1) The director shall adopt rules in accordance with section 111.15 of the Revised Code governing fiscal agreements. The director shall adopt the rules as if they were internal management rules. The rules shall establish methodologies to be used to determine the amount of financial assistance to be awarded under the agreements and may do any or all of the following:	35827
(a) Govern the establishment of consolidated funding allocations and other allocations;	35828
(b) Specify allowable uses of financial assistance awarded under the agreements;	35829
(c) Establish reporting, cash management, audit, and other requirements the director determines are necessary to provide accountability for the use of financial assistance awarded under the agreements and determine compliance with requirements established by the department or any of the following: a federal	35830
	35831
	35832
	35833
	35834
	35835
	35836
	35837
	35838
	35839
	35840
	35841
	35842
	35843
	35844
	35845
	35846
	35847
	35848
	35849
	35850
	35851

or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal entity, or executive orders. 35852
35853
35854

(2) A requirement of a fiscal agreement established by a rule adopted under this division is applicable to a fiscal agreement without having to be restated in the fiscal agreement. 35855
35856
35857

Sec. 5101.211. (A) As used in this section of the Revised Code: 35858
35859

(1) "Local area" has the same meaning as in section 101 of the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2801, as amended, and division (A) of section 6301.01 of the Revised Code; 35860
35861
35862
35863

(2) "Chief elected official" has the same meaning as in section 101 of the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2801, as amended, and division (F) of section 6301.01 of the Revised Code; 35864
35865
35866
35867

(3) "Grantee" means the chief elected officials of a local area. 35868
35869

(B) The director of job and family services shall enter into one or more written grant agreements with each local area under which financial assistance is awarded for workforce development activities included in the agreements. A grant agreement shall establish the terms and conditions governing the accountability for and use of grants provided by the department of job and family services to the grantee for the administration of workforce development activities funded under the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2801, as amended. 35870
35871
35872
35873
35874
35875
35876
35877
35878

(C) In the case of a local area comprised of multiple political subdivisions, nothing in this section shall preclude the chief elected officials of a local area from entering into an 35879
35880
35881

agreement among themselves to distribute any liability for 35882
activities of the local area, but such an agreement shall not be 35883
binding on the department of job and family services. 35884

(D) The written grant agreement entered into under division 35885
(B) of this section shall comply with all applicable federal and 35886
state laws governing workforce development activities. All federal 35887
conditions and restrictions that apply to the use of grants 35888
received by the department of job and family services shall apply 35889
to the use of the grants received by the local areas from the 35890
department. 35891

(E) A written grant agreement entered into under division (B) 35892
of this section shall: 35893

(1) Identify the chief elected officials for the local area; 35894

(2) Provide for the incorporation of the local workforce 35895
development plan; 35896

(3) Include the chief elected officials' assurance that the 35897
local area and any subgrantee or contractor of the local area will 35898
do all of the following: 35899

(a) Ensure that the financial assistance awarded under the 35900
grant agreement is used, and the workforce development duties 35901
included in the agreement are performed, in accordance with 35902
requirements established by the department or any of the 35903
following: federal or state law, the state plan for receipt of 35904
federal financial participation, grant agreements between the 35905
department and a federal agency, or executive orders. 35906

(b) Ensure that the chief elected officials and any 35907
subgrantee or contractor of the local area utilize a financial 35908
management system and other accountability mechanisms that meet 35909
requirements the department establishes; 35910

(c) Require the chief elected officials and any subgrantee or 35911

contractor of the local area to do both of the following: 35912

(i) Monitor all private and government entities that receive 35913
a payment from financial assistance awarded under the grant 35914
agreement to ensure that each entity uses the payment in 35915
accordance with requirements for the workforce development duties 35916
included in the agreement; 35917

(ii) Take action to recover payments that are not used in 35918
accordance with the requirements for the workforce development 35919
duties that are included in the agreement. 35920

(d) Require the chief elected officials of a local area to 35921
promptly reimburse the department the amount that represents the 35922
amount a local area is responsible for of funds the department 35923
pays to any entity because of an adverse audit finding, adverse 35924
quality control finding, final disallowance of federal financial 35925
participation, or other sanction or penalty; 35926

(e) Require chief elected officials of a local area to take 35927
prompt corrective action if the department, auditor of state, 35928
federal agency, or other entity authorized by federal or state law 35929
to determine compliance with requirements for a workforce 35930
development duty included in the agreement determines compliance 35931
has not been achieved; 35932

(4) Provide that the award of financial assistance is subject 35933
to the availability of federal funds and appropriations made by 35934
the general assembly; 35935

(5) Provide for annual financial, administrative, or other 35936
incentive awards, if any, to be provided in accordance with 35937
section 5101.23 of the Revised Code. 35938

(6) Establish the method of amending or terminating the grant 35939
agreement and an expedited process for correcting terms or 35940
conditions of the agreement that the director and the chief 35941
elected officials agree are erroneous. 35942

(7) Provide for the department of job and family services to award financial assistance for the workforce development duties included in the agreement in accordance with a methodology for determining the amount of the award established by rules adopted under division (F) of this section. 35943
35944
35945
35946
35947

(8) Determine the dates that the grant agreement begins and ends. 35948
35949

(F)(1) The director shall adopt rules in accordance with section 111.15 of the Revised Code governing grant agreements. The director shall adopt the rules as if they were internal management rules. The rules shall establish methodologies to be used to determine the amount of financial assistance to be awarded under the agreements and may do any of the following: 35950
35951
35952
35953
35954
35955

(a) Govern the establishment of consolidated funding allocations and other allocations; 35956
35957

(b) Specify allowable uses of financial assistance awarded under the agreements; 35958
35959

(c) Establish reporting, cash management, audit, and other requirements the director determines are necessary to provide accountability for the use of financial assistance awarded under the agreements and determine compliance with requirements established by the department or any of the following: a federal or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal entity, or executive order. 35960
35961
35962
35963
35964
35965
35966
35967

(2) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement. 35968
35969
35970

Sec. ~~5101.211~~ 5101.212. The director of job and family services may enter into a written agreement with one or more state 35971
35972

agencies, as defined in section 117.01 of the Revised Code, and 35973
state universities and colleges to assist in the coordination, 35974
provision, or enhancement of the family services duties of a 35975
county family services agency or the workforce development 35976
activities of a workforce development agency. The director also 35977
may enter into written agreements or contracts with, or issue 35978
grants to, private and government entities under which funds are 35979
provided for the enhancement or innovation of family services 35980
duties or workforce development activities on the state or local 35981
level. ~~The terms of an agreement, contract, or grant under this~~ 35982
~~section may be incorporated into a partnership agreement the~~ 35983
~~director enters into with a board of county commissioners under~~ 35984
~~section 5101.21 or with the chief elected official of a municipal~~ 35985
~~corporation under section 5101.213 of the Revised Code, if the~~ 35986
~~director and board or chief elected official and state agency,~~ 35987
~~state university or college, or private or government entity~~ 35988
~~agree.~~ 35989

The director may adopt internal management rules in 35990
accordance with section 111.15 of the Revised Code to implement 35991
this section. 35992

Sec. ~~5101.212~~ 5101.213. If the director of job and family 35993
services enters into an agreement or contracts with, or issues a 35994
grant to, a religious organization under section ~~5101.211~~ 5101.212 35995
of the Revised Code, the religious organization shall comply with 35996
section 104 of the Personal Responsibility and Work Opportunity 35997
and Reconciliation Act of 1996 (P.L. 104-193). 35998

Sec. 5101.214. The director of job and family services may 35999
enter into agreements with one-stop operators and one-stop 36000
partners for the purpose of implementing the requirements of 36001
section 121 of the "Workforce Investment Act of 1998," 112 Stat. 36002
936, 29 U.S.C. 2801. 36003

Sec. 5101.22. The department of job and family services may 36004
establish performance and other administrative standards for the 36005
administration and outcomes of family services duties and 36006
workforce development activities and determine at intervals the 36007
department decides the degree to which a county family services 36008
agency or workforce development agency complies with a performance 36009
or other administrative standard. The department may use 36010
statistical sampling, performance audits, case reviews, or other 36011
methods it determines necessary and appropriate to determine 36012
compliance with performance and administrative standards. 36013

~~A performance or other administrative standard established 36014
under this section for a family service duty or workforce 36015
development activity does not apply to a county family services 36016
agency or workforce development agency administering the duty if a 36017
different performance or administrative standard is specified for 36018
the agency's administration of the duty or activity pursuant to a 36019
partnership agreement entered into under section 5101.21 or 36020
5101.213 of the Revised Code. 36021~~

The director of job and family services may adopt rules in 36022
accordance with section 111.15 of the Revised Code to implement 36023
this section. If the director adopts the rules, the director shall 36024
adopt the rules as if they were internal management rules. 36025

Sec. 5101.24. (A) As used in this section, "responsible 36026
entity" means ~~the following:~~ 36027

~~(1) If the family services duty or workforce development 36028
activity involved is included in a partnership agreement a board 36029
of county commissioners and the director of job and family 36030
services enters into under section 5101.21 of the Revised Code, 36031
the board regardless of the fact that or a county family services 36032
agency performs the family services duty or a workforce 36033~~

~~development agency performs the workforce development activity.~~ 36034

~~(2) If the family services duty or workforce development activity involved is not included in a partnership agreement, the county family services agency or workforce development agency, whichever the director of job and family services determines is appropriate to take action against under division (C) of this section.~~ 36035
36036
36037
36038
36039
36040

~~(B) The~~ Regardless of whether a family services duty is performed by a county family services agency, private or government entity pursuant to a contract entered into under section 307.982 of the Revised Code or division (C)(2) of section 5153.16 of the Revised Code, or private or government provider of a family service duty, the department of job and family services may take action under division (C) of this section against the responsible entity if the department determines any of the following apply to the county family services agency performing the family services duty or workforce development agency providing the workforce development activity are the case: 36041
36042
36043
36044
36045
36046
36047
36048
36049
36050
36051

~~(1) The agency fails to meet a~~ A requirement of a fiscal agreement entered into under section 5101.21 of the Revised Code that includes the family services duty, including a requirement for fiscal agreements established by rules adopted under that section, is not complied with; 36052
36053
36054
36055
36056

~~(2) A performance standard specified in a partnership agreement entered into under section 5101.21 or for the family services duty established under section 5101.22 of the Revised Code for the duty or activity is not met;~~ 36057
36058
36059
36060

~~(2) The agency fails to comply with a~~ (3) A requirement for the family services duty established by the department or any of the following is not complied with: a federal statute or regulations, state statute, or a department rule for the duty or 36061
36062
36063
36064

activity law, state plan for receipt of federal financial participation, grant agreement between the department and a federal agency, or executive order; 36065
36066
36067

~~(3)~~(4) The agency responsible entity is solely or partially responsible, as determined by the director of job and family services, for an adverse audit ~~or~~ finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty regarding the family services duty ~~or~~ activity. 36068
36069
36070
36071
36072
36073

(C) The department may take one or more of the following actions against the responsible entity ~~if~~ when authorized by division (B)(1), (2), ~~or~~ (3), or (4) of this section ~~applies~~: 36074
36075
36076

(1) Require the responsible entity to submit to and comply with a corrective action plan, established or approved by the department, pursuant to a time schedule specified by the department; 36077
36078
36079
36080

(2) Require the responsible entity to do one of the following: 36081
36082

(a) Share with the department a final disallowance of federal financial participation or other sanction or penalty; 36083
36084

(b) Reimburse the department the amount the department pays to the federal government or another entity that represents the amount the agency responsible entity is responsible for of an adverse audit ~~or~~ finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity; 36085
36086
36087
36088
36089
36090
36091

(c) Pay the federal government or another entity the amount that represents the amount the agency responsible entity is responsible for of an adverse audit ~~or~~ finding, adverse quality control finding, final disallowance of federal financial 36092
36093
36094
36095

participation, or other sanction or penalty issued by the federal 36096
government, auditor of state, or other entity; 36097

(d) Pay the department the amount that represents the amount 36098
the responsible entity is responsible for of an adverse audit 36099
finding, adverse quality control finding, or other sanction or 36100
penalty issued by the department. 36101

(3) Impose a financial or administrative sanction or adverse 36102
audit finding issued by the department against the responsible 36103
entity. A sanction may be increased if the department has 36104
previously taken action against the responsible entity under this 36105
division. 36106

(4) Perform, or contract with a government or private entity 36107
for the entity to perform, the family services duty ~~or workforce~~ 36108
~~development activity~~ until the department is satisfied that the 36109
responsible entity ensures that the duty ~~or activity~~ will be 36110
performed satisfactorily. If the department performs or contracts 36111
with an entity to perform a family services duty ~~or workforce~~ 36112
~~development activity~~ under division (C)(4) of this section, the 36113
department may do either or both of the following: 36114

(a) Spend funds in the county treasury appropriated by the 36115
board of county commissioners for the duty ~~or activity~~; 36116

(b) Withhold funds allocated or reimbursements due to the 36117
responsible entity for the duty ~~or activity~~ and spend the funds 36118
for the duty ~~or activity~~. 36119

(5) Request that the attorney general bring mandamus 36120
proceedings to compel the responsible entity to take or cease the 36121
action that causes division (B)(1), (2), ~~or~~ (3), or (4) of this 36122
section to apply. The attorney general shall bring mandamus 36123
proceedings in the Franklin county court of appeals at the 36124
department's request. 36125

(6) If the department takes action under this division 36126

because of division (B)(3) of this section, withhold funds 36127
allocated or reimbursement due to the responsible entity until the 36128
department determines that the responsible entity is in compliance 36129
with the requirement. The department shall release the funds when 36130
the department determines that compliance has been achieved. 36131

(D) If the department ~~decides~~ proposes to take action against 36132
the responsible entity under division (C) of this section, the 36133
department shall notify the responsible entity and county auditor. 36134
The notice shall be in writing and specify the action the 36135
department proposes to take. The department shall send the notice 36136
by regular United States mail. 36137

~~The~~ Except as provided by division (E) of this section, the 36138
responsible entity may request an administrative review of a 36139
proposed action, ~~other than a proposed action under division~~ 36140
~~(C)(5) of this section, by sending a written request to the~~ 36141
~~department not later than~~ in accordance with administrative review 36142
procedures the department shall establish. The administrative 36143
review procedures shall comply with all of the following: 36144

(1) A request for an administrative review shall state 36145
specifically all of the following: 36146

(a) The proposed action specified in the notice from the 36147
department for which the review is requested; 36148

(b) The reason why the responsible entity believes the 36149
proposed action is inappropriate; 36150

(c) All facts and legal arguments that the responsible entity 36151
wants the department to consider; 36152

(d) The name of the person who will serve as the responsible 36153
entity's representative in the review. 36154

(2) If the department's notice specifies more than one 36155
proposed action and the responsible entity does not specify all of 36156

the proposed actions in its request pursuant to division (D)(1)(a) 36157
of this section, the proposed actions not specified in the request 36158
shall not be subject to administrative review and the parts of the 36159
notice regarding those proposed actions shall be final and binding 36160
on the responsible entity. 36161

(3) In the case of a proposed action under division (C)(1) of 36162
this section, the responsible entity shall have fifteen calendar 36163
days after the department mails the notice to the responsible 36164
entity to send a written request to the department for an 36165
administrative review. If it receives such a request within the 36166
required time, the department shall postpone taking action under 36167
division (C)(1) of this section for fifteen calendar days 36168
following the day it receives the request. ~~The~~ to allow a 36169
representative of the department and a representative of the 36170
responsible entity ~~shall attempt~~ an informal opportunity to 36171
resolve any dispute during that fifteen-day period. 36172

~~(2)~~(4) In the case of a proposed action under division 36173
(C)(2), ~~(3), or (4)~~ of this section, ~~forty-five~~ the responsible 36174
entity shall have thirty calendar days after the department mails 36175
the notice to the responsible entity to send a written request to 36176
the department for an administrative review. ~~The administrative~~ 36177
~~review shall be limited solely to the issue of the amount the~~ 36178
~~responsible entity shall share with the department, reimburse the~~ 36179
~~department, or pay to the federal government or another entity~~ 36180
~~under division (C)(2) of this section.~~ If it receives such a 36181
request within the required time, the department shall postpone 36182
taking action under division (C)(2), (3), or (4) of this section 36183
for thirty calendar days following the day it receives the request 36184
to allow a representative of the department and a representative 36185
of the responsible entity ~~shall attempt~~ an informal opportunity to 36186
resolve any dispute ~~within sixty days~~ during that thirty-day 36187
period. 36188

~~(3) In the case of a proposed action under division (C)(3) or
(4) of this section, forty five days after the department mails
the notice to the responsible entity. The department and
responsible entity shall attempt to resolve any dispute within
sixty days.~~ 36189
36190
36191
36192
36193

~~If the department and responsible entity fail to resolve any
dispute within the required time, the department shall conduct a
hearing in accordance with Chapter 119. of the Revised Code,
except that the department, notwithstanding section 119.07 of the
Revised Code, is not required to schedule the hearing within
fifteen days of the responsible entity's request.~~ 36194
36195
36196
36197
36198
36199

~~(E)(5) In the case of a proposed action under division (C)(2)
of this section, the responsible entity may not include in its
request disputes over a finding, final disallowance of federal
financial participation, or other sanction or penalty issued by
the federal government, auditor of state, or entity other than the
department.~~ 36200
36201
36202
36203
36204
36205

~~(6) If the responsible entity fails to request an
administrative review within the required time, the responsible
entity loses the right to request an administrative review of the
proposed actions specified in the notice and the notice becomes
final and binding on the responsible entity.~~ 36206
36207
36208
36209
36210

~~(7) If the informal opportunity provided in division (D)(3)
or (4) of this section does not result in a written resolution to
the dispute, the director of job and family services shall appoint
an administrative review panel to conduct the administrative
review. The review panel shall consist of department employees who
are not involved in the department's proposal to take action
against the responsible party. The review panel shall review the
responsible party's request. The review panel may require that the
department or responsible party submit additional information and~~ 36211
36212
36213
36214
36215
36216
36217
36218
36219

schedule and conduct an informal hearing to obtain testimony or 36220
additional evidence. A review of a proposal to take action under 36221
division (C)(2) of this section shall be limited solely to the 36222
issue of the amount the responsible entity shall share with the 36223
department, reimburse the department, or pay to the federal 36224
government, department, or other entity under division (C)(2) of 36225
this section. The review panel is not required to make a 36226
stenographic record of its hearing or other proceedings. 36227

(8) After finishing an administrative review, an 36228
administrative review panel appointed under division (D)(7) of 36229
this section shall submit a written report to the director setting 36230
forth its findings of fact, conclusions of law, and 36231
recommendations for action. The director may approve, modify, or 36232
disapprove the recommendations. If the director modifies or 36233
disapproves the recommendations, the director shall state the 36234
reasons for the modification or disapproval and the actions to be 36235
taken against the responsible entity. 36236

(9) The director's approval, modification, or disapproval 36237
under division (D)(8) of this section shall be final and binding 36238
on the responsible entity and shall not be subject to further 36239
departmental review. 36240

(E) The responsible entity is not entitled to an 36241
administrative review under division (D) of this section for any 36242
of the following: 36243

(1) An action taken under division (C)(5) or (6) of this 36244
section; 36245

(2) An action taken under section 5101.242 of the Revised 36246
Code; 36247

(3) An action taken under division (C)(2) of this section if 36248
the federal government, auditor of state, or entity other than the 36249
department has identified the county family services agency as 36250

being solely or partially responsible for an adverse audit 36251
finding, adverse quality control finding, final disallowance of 36252
federal financial participation, or other sanction or penalty; 36253

(4) An adjustment to an allocation, cash draw, advance, or 36254
reimbursement to a county family services agency that the 36255
department determines necessary for budgetary reasons; 36256

(5) Withholding of a cash draw or reimbursement due to 36257
noncompliance with a reporting requirement established in rules 36258
adopted under section 5101.243 of the Revised Code. 36259

(F) This section does not apply to other actions the 36260
department takes against the responsible entity pursuant to 36261
authority granted by another state law unless the other state law 36262
requires the department to take the action in accordance with this 36263
section. 36264

(G) The director of job and family services may adopt rules 36265
in accordance with Chapter 119. of the Revised Code as necessary 36266
to implement this section. 36267

Sec. 5101.241. (A) As used in this section: 36268

(1) "Local area" and "chief elected official" have the same 36269
meaning as in section 5101.211 of the Revised Code. 36270

(2) "Responsible entity" means the chief elected officials of 36271
a local area. 36272

(B) The department of job and family services may take action 36273
under division (C) of this section against the responsible entity, 36274
regardless of who performs the workforce development activity, if 36275
the department determines any of the following are the case: 36276

(1) A requirement of a grant agreement entered into under 36277
section 5101.211 of the Revised Code that includes the workforce 36278
development activity, including a requirement for grant agreements 36279
established by rules adopted under that section, is not complied 36280

<u>with;</u>	36281
<u>(2) A performance standard for the workforce development activity established under section 5101.22 of the Revised Code is not met;</u>	36282 36283 36284
<u>(3) A requirement for the workforce development activity established by the department or any of the following is not complied with: a federal or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal agency, or executive order;</u>	36285 36286 36287 36288 36289
<u>(4) The responsible entity is solely or partially responsible, as determined by the director of job and family services, for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty regarding the workforce development activity.</u>	36290 36291 36292 36293 36294 36295
<u>(C) The department may take one or more of the following actions against the responsible entity when authorized by division (B)(1), (2), (3), or (4) of this section:</u>	36296 36297
<u>(1) Require the responsible entity to submit to and comply with a corrective action plan, established or approved by the department, pursuant to a time schedule specified by the department;</u>	36298 36299 36300 36301 36302
<u>(2) Require the responsible entity to do one of the following:</u>	36303 36304
<u>(a) Share with the department a final disallowance of federal financial participation or other sanction or penalty;</u>	36305 36306
<u>(b) Reimburse the department the amount the department pays to the federal government or another entity that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final disallowance</u>	36307 36308 36309 36310

of federal financial participation, or other sanction or penalty 36311
issued by the federal government, auditor of state, or other 36312
entity; 36313

(c) Pay the federal government or another entity the amount 36314
that represents the amount the responsible entity is responsible 36315
for of an adverse audit finding, adverse quality control finding, 36316
final disallowance of federal financial participation, or other 36317
sanction or penalty issued by the federal government, auditor of 36318
state, or other entity; 36319

(d) Pay the department the amount that represents the amount 36320
the responsible entity is responsible for of an adverse audit 36321
finding, adverse quality control finding, or other sanction or 36322
penalty issued by the department. 36323

(3) Impose a financial or administrative sanction or adverse 36324
audit finding issued by the department against the responsible 36325
entity, which may be increased with each subsequent action taken 36326
against the responsible entity. 36327

(4) Perform or contract with a government or private entity 36328
for the entity to perform the workforce development activity until 36329
the department is satisfied that the responsible entity ensures 36330
that the activity will be performed to the department's 36331
satisfaction. If the department performs or contracts with an 36332
entity to perform the workforce development activity under 36333
division (C)(4) of this section, the department may withhold funds 36334
allocated to or reimbursements due to the responsible entity for 36335
the activity and use those funds to implement division (C)(4) of 36336
this section. 36337

(5) Request the attorney general to bring mandamus 36338
proceedings to compel the responsible entity to take or cease the 36339
actions listed in division (B) of this section. The attorney 36340
general shall bring any mandamus proceedings in the Franklin 36341

county court of appeals at the department's request. 36342

(6) If the department takes action under this division 36343
because of division (B)(3) of this section, withhold funds 36344
allocated or reimbursement due to the responsible entity until the 36345
department determines that the responsible entity is in compliance 36346
with the requirement. The department shall release the funds when 36347
the department determines that compliance has been achieved. 36348

(D) The department shall notify the responsible entity and 36349
the appropriate county auditor when the department proposes to 36350
take action under division (C) of this section. The notice shall 36351
be in writing and specify the action the department proposes to 36352
take. The department shall send the notice by regular United 36353
States mail. Except as provided in division (E) of this section, 36354
the responsible entity may request an administrative review of a 36355
proposed action in accordance with administrative review 36356
procedures the department shall establish. The administrative 36357
review procedures shall comply with all of the following: 36358

(1) A request for an administrative review shall state 36359
specifically all of the following: 36360

(a) The proposed action specified in the notice from the 36361
department for which the review is requested; 36362

(b) The reason why the responsible entity believes the 36363
proposed action is inappropriate; 36364

(c) All facts and legal arguments that the responsible entity 36365
wants the department to consider; 36366

(d) The name of the person who will serve as the responsible 36367
entity's representative in the review. 36368

(2) If the department's notice specifies more than one 36369
proposed action and the responsible entity does not specify all of 36370
the proposed actions in its request pursuant to division (D)(1)(a) 36371

of this section, the proposed actions not specified in the request 36372
shall not be subject to administrative review and the parts of the 36373
notice regarding those proposed actions shall be final and binding 36374
on the responsible entity. 36375

(3) In the case of a proposed action under division (C)(1) of 36376
this section, the responsible entity shall have fifteen calendar 36377
days after the department mails the notice to the responsible 36378
entity to send a written request to the department for an 36379
administrative review. If it receives such a request within the 36380
required time, the department shall postpone taking action under 36381
division (C)(1) of this section for fifteen calendar days 36382
following the day it receives the request to allow a 36383
representative of the department and a representative of the 36384
responsible entity an informal opportunity to resolve any dispute 36385
during that fifteen-day period. 36386

(4) In the case of a proposed action under division (C)(2), 36387
(3), or (4) of this section, the responsible entity shall have 36388
thirty calendar days after the department mails the notice to the 36389
responsible entity to send a written request to the department for 36390
an administrative review. If it receives such a request within the 36391
required time, the department shall postpone taking action under 36392
division (C)(2), (3), or (4) of this section for thirty calendar 36393
days following the day it receives the request to allow a 36394
representative of the department and a representative of the 36395
responsible entity an informal opportunity to resolve any dispute 36396
during that thirty-day period. 36397

(5) In the case of a proposed action under division (C)(2) of 36398
this section, the responsible entity may not include in its 36399
request disputes over a finding, final disallowance of federal 36400
financial participation, or other sanction or penalty issued by 36401
the federal government, auditor of state, or other entity other 36402
than the department. 36403

(6) If the responsible entity fails to request an administrative review within the required time, the responsible entity loses the right to request an administrative review of the proposed actions specified in the notice and the notice becomes final and binding on the responsible entity. 36404
36405
36406
36407
36408

(7) If the informal opportunity provided in division (D)(3) or (4) of this section does not result in a written resolution to the dispute, the director of job and family services shall appoint an administrative review panel to conduct the administrative review. The review panel shall consist of department employees who are not involved in the department's proposal to take action against the responsible entity. The review panel shall review the responsible entity's request. The review panel may require that the department or responsible entity submit additional information and schedule and conduct an informal hearing to obtain testimony or additional evidence. A review of a proposal to take action under division (C)(2) of this section shall be limited solely to the issue of the amount the responsible entity shall share with the department, reimburse the department, or pay to the federal government, department, or other entity under division (C)(2) of this section. The review panel is not required to make a stenographic record of its hearing or other proceedings. 36409
36410
36411
36412
36413
36414
36415
36416
36417
36418
36419
36420
36421
36422
36423
36424
36425

(8) After finishing an administrative review, an administrative review panel appointed under division (D)(7) of this section shall submit a written report to the director setting forth its findings of fact, conclusions of law, and recommendations for action. The director may approve, modify, or disapprove the recommendations. If the director modifies or disapproves the recommendations, the director shall state the reasons for the modification or disapproval and the actions to be taken against the responsible entity. 36426
36427
36428
36429
36430
36431
36432
36433
36434

(9) The director's approval, modification, or disapproval 36435

under division (D)(8) of this section shall be final and binding 36436
on the responsible entity and shall not be subject to further 36437
departmental review. 36438

(E) The responsible entity is not entitled to an 36439
administrative review under division (D) of this section for any 36440
of the following: 36441

(1) An action taken under division (C)(5) or (6) of this 36442
section; 36443

(2) An action taken under section 5101.242 of the Revised 36444
Code; 36445

(3) An action taken under division (C)(2) of this section if 36446
the federal government, auditor of state, or entity other than the 36447
department has identified the responsible entity as being solely 36448
or partially responsible for an adverse audit finding, adverse 36449
quality control finding, final disallowance of federal financial 36450
participation, or other sanction or penalty; 36451

(4) An adjustment to an allocation, cash draw, advance, or 36452
reimbursement to the responsible entity's local area that the 36453
department determines necessary for budgetary reasons; 36454

(5) Withholding of a cash draw or reimbursement due to 36455
noncompliance with a reporting requirement established in rules 36456
adopted under section 5101.243 of the Revised Code. 36457

(F) This section does not apply to other actions the 36458
department takes against the responsible entity pursuant to 36459
authority granted by another state law unless the other state law 36460
requires the department to take the action in accordance with this 36461
section. 36462

(G) The director of job and family services may adopt rules 36463
in accordance with Chapter 119. of the Revised Code as necessary 36464
to implement this section. 36465

Sec. 5101.242. The department of job and family services may 36466
certify a claim to the attorney general under section 131.02 of 36467
the Revised Code for the attorney general to take action under 36468
that section against a responsible entity to recover any funds 36469
that the department determines the responsible entity owes the 36470
department for actions taken under division (C)(2), (3), or (4) of 36471
section 5101.24 or 5101.241 of the Revised Code. 36472

Sec. 5101.243. The director of job and family services may 36473
adopt rules in accordance with section 111.15 of the Revised Code 36474
establishing reporting requirements for family services duties and 36475
workforce development activities. If the director adopts the 36476
rules, the director shall adopt the rules as if they were internal 36477
management rules. 36478

Sec. 5101.36. Any application for public assistance gives a 36479
right of subrogation to the department of job and family services 36480
for any workers' compensation benefits payable to a person who is 36481
subject to a support order, as defined in section 3119.01 of the 36482
Revised Code, on behalf of the applicant, to the extent of any 36483
public assistance payments made on the applicant's behalf. If the 36484
director of job and family services, in consultation with a child 36485
support enforcement agency and the administrator of the bureau of 36486
workers' compensation, determines that a person responsible for 36487
support payments to a recipient of public assistance is receiving 36488
workers' compensation, the director shall notify the administrator 36489
of the amount of the benefit to be paid to the department of job 36490
and family services. 36491

For purposes of this section, "public assistance" means 36492
medical assistance provided through the medical assistance program 36493
established under section 5111.01 of the Revised Code; Ohio works 36494
first provided under Chapter 5107. of the Revised Code; 36495

prevention, retention, and contingency benefits and services 36496
provided under Chapter 5108. of the Revised Code; ~~or~~ disability 36497
financial assistance provided under Chapter 5115. of the Revised 36498
Code; or disability medical assistance provided under Chapter 36499
5115. of the Revised Code. 36500

Sec. 5101.58. As used in this section and section 5101.59 of 36501
the Revised Code, "public assistance" means aid provided under 36502
Chapter 5111. or 5115. of the Revised Code and participation in 36503
the Ohio works first program established under Chapter 5107. of 36504
the Revised Code. 36505

The acceptance of public assistance gives a right of recovery 36506
to the department of job and family services and a county 36507
department of job and family services against the liability of a 36508
third party for the cost of medical services and care arising out 36509
of injury, disease, or disability of the public assistance 36510
recipient or participant. When an action or claim is brought 36511
against a third party by a public assistance recipient or 36512
participant, the entire amount of any settlement or compromise of 36513
the action or claim, or any court award or judgment, is subject to 36514
the recovery right of the department of job and family services or 36515
county department of job and family services. Except in the case 36516
of a recipient or participant who receives medical services or 36517
care through a managed care organization, the department's or 36518
county department's claim shall not exceed the amount of medical 36519
expenses paid by the departments on behalf of the recipient or 36520
participant. In the case of a recipient or participant who 36521
receives medical services or care through a managed care 36522
organization, the amount of the department's or county 36523
department's claim shall be the amount the managed care 36524
organization pays for medical services or care rendered to the 36525
recipient or participant, even if that amount is more than the 36526
amount the departments pay to the managed care organization for 36527

the recipient's or participant's medical services or care. Any 36528
settlement, compromise, judgment, or award that excludes the cost 36529
of medical services or care shall not preclude the departments 36530
from enforcing their rights under this section. 36531

Prior to initiating any recovery action, the recipient or 36532
participant, or the recipient's or participant's representative, 36533
shall disclose the identity of any third party against whom the 36534
recipient or participant has or may have a right of recovery. 36535
Disclosure shall be made to the department of job and family 36536
services when medical expenses have been paid pursuant to Chapter 36537
5111. or 5115. of the Revised Code. Disclosure shall be made to 36538
both the department of job and family services and the appropriate 36539
county department of job and family services when medical expenses 36540
have been paid pursuant to Chapter 5115. of the Revised Code. No 36541
settlement, compromise, judgment, or award or any recovery in any 36542
action or claim by a recipient or participant where the 36543
departments have a right of recovery shall be made final without 36544
first giving the appropriate departments notice and a reasonable 36545
opportunity to perfect their rights of recovery. If the 36546
departments are not given appropriate notice, the recipient or 36547
participant is liable to reimburse the departments for the 36548
recovery received to the extent of medical payments made by the 36549
departments. The departments shall be permitted to enforce their 36550
recovery rights against the third party even though they accepted 36551
prior payments in discharge of their rights under this section if, 36552
at the time the departments received such payments, they were not 36553
aware that additional medical expenses had been incurred but had 36554
not yet been paid by the departments. The third party becomes 36555
liable to the department of job and family services or county 36556
department of job and family services as soon as the third party 36557
is notified in writing of the valid claims for recovery under this 36558
section. 36559

The right of recovery does not apply to that portion of any judgment, award, settlement, or compromise of a claim, to the extent of attorneys' fees, costs, or other expenses incurred by a recipient or participant in securing the judgment, award, settlement, or compromise, or to the extent of medical, surgical, and hospital expenses paid by such recipient or participant from the recipient's or participant's own resources. Attorney fees and costs or other expenses in securing any recovery shall not be assessed against any claims of the departments.

To enforce their recovery rights, the departments may do any of the following:

(A) Intervene or join in any action or proceeding brought by the recipient or participant or on the recipient's or participant's behalf against any third party who may be liable for the cost of medical services and care arising out of the recipient's or participant's injury, disease, or disability;

(B) Institute and pursue legal proceedings against any third party who may be liable for the cost of medical services and care arising out of the recipient's or participant's injury, disease, or disability;

(C) Initiate legal proceedings in conjunction with the injured, diseased, or disabled recipient or participant or the recipient's or participant's legal representative.

Recovery rights created by this section may be enforced separately or jointly by the department of job and family services and the county department of job and family services.

The right of recovery given to the department under this section does not include rights to support from any other person assigned to the state under sections 5107.20 and ~~5115.13~~ 5115.07 of the Revised Code, but includes payments made by a third party under contract with a person having a duty to support.

The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code the department considers necessary to implement this section.

Sec. 5101.59. (A) The application for or acceptance of public assistance constitutes an automatic assignment of certain rights to the department of job and family services. This assignment includes the rights of the applicant, recipient, or participant and also the rights of any other member of the assistance group for whom the applicant, recipient, or participant can legally make an assignment.

Pursuant to this section, the applicant, recipient, or participant assigns to the department any rights to medical support available to the applicant, recipient, or participant or for other members of the assistance group under an order of a court or administrative agency, and any rights to payments from any third party liable to pay for the cost of medical care and services arising out of injury, disease, or disability of the applicant, recipient, participant, or other members of the assistance group.

Medicare benefits shall not be assigned pursuant to this section. Benefits assigned to the department by operation of this section are directly reimbursable to the department by liable third parties.

(B) Refusal by the applicant, recipient, or participant to cooperate in obtaining medical support and payments for self or any other member of the assistance group renders the applicant, recipient, or participant ineligible for public assistance, unless cooperation is waived by the department. Eligibility shall continue for any individual who cannot legally assign the individual's own rights and who would have been eligible for public assistance but for the refusal to assign the individual's

rights or to cooperate as required by this section by another 36622
person legally able to assign the individual's rights. 36623

If the applicant, recipient, or participant or any member of 36624
the assistance group becomes ineligible for public assistance, the 36625
department shall restore to the applicant, recipient, participant, 36626
or member of the assistance group any future rights to benefits 36627
assigned under this section. 36628

The rights of assignment given to the department under this 36629
section do not include rights to support assigned under section 36630
5107.20 or ~~5115.13~~ 5115.07 of the Revised Code. 36631

(C) The director of job and family services may adopt rules 36632
in accordance with Chapter 119. of the Revised Code to implement 36633
this section, including rules that specify what constitutes 36634
cooperating with efforts to obtain medical support and payments 36635
and when the cooperation requirement may be waived. 36636

Sec. 5101.60. As used in sections 5101.60 to ~~5101.71~~ 5101.70 36637
of the Revised Code: 36638

(A) "Abuse" means the infliction upon an adult, by ~~self~~ the 36639
adult or others, of injury, unreasonable confinement, 36640
intimidation, or cruel punishment with resulting physical harm, 36641
pain, or mental anguish. 36642

(B) "Adult" means any person sixty years of age or older 36643
within this state who is handicapped by the infirmities of aging 36644
or who has a physical or mental impairment which prevents the 36645
person from providing for the person's own care or protection, and 36646
who resides in an independent living arrangement. An "independent 36647
living arrangement" is a domicile of a person's own choosing, 36648
including, but not limited to, a private home, apartment, trailer, 36649
or rooming house. Except as otherwise provided in this division, 36650
"independent living arrangement" includes a community alternative 36651

home licensed pursuant to section 3724.03 of the Revised Code but 36652
does not include other institutions or facilities licensed by the 36653
state, or facilities in which a person resides as a result of 36654
voluntary, civil, or criminal commitment. "Independent living 36655
arrangement" does include adult care facilities licensed pursuant 36656
to Chapter 3722. of the Revised Code. 36657

(C) "Caretaker" means the person assuming the responsibility 36658
for the care of an adult on a voluntary basis, by contract, 36659
through receipt of payment for care, as a result of a family 36660
relationship, or by order of a court of competent jurisdiction. 36661

(D) "Court" means the probate court in the county where an 36662
adult resides. 36663

(E) "Designated agency" means a county agency designated 36664
under division (A)(2) of section 5101.601 of the Revised Code by 36665
the board of county commissioners to serve as the administrative 36666
agency for the county's adult protective services system. 36667

(F) "Emergency" means that ~~the~~ an adult is living in 36668
conditions which present a substantial risk of immediate and 36669
irreparable physical harm or death to ~~self~~ the adult or any other 36670
person. 36671

~~(F)~~(G) "Emergency services" means protective services 36672
furnished to an adult in an emergency. 36673

~~(G)~~(H) "Exploitation" means the unlawful or improper act of a 36674
caretaker using an adult or an adult's resources for monetary or 36675
personal benefit, profit, or gain. 36676

~~(H)~~(I) "In need of protective services" means an adult known 36677
or suspected to be suffering from abuse, neglect, or exploitation 36678
to an extent that either life is endangered or physical harm, 36679
mental anguish, or mental illness results or is likely to result. 36680

~~(I)~~(J) "Incapacitated person" means a person who is impaired 36681

for any reason to the extent that the person lacks sufficient 36682
understanding or capacity to make and carry out reasonable 36683
decisions concerning the person's self or resources, with or 36684
without the assistance of a caretaker. Refusal to consent to the 36685
provision of services shall not be the sole determinative that the 36686
person is incapacitated. "Reasonable decisions" are decisions made 36687
in daily living which facilitate the provision of food, shelter, 36688
clothing, and health care necessary for life support. 36689

~~(J)~~(K) "Law enforcement agency" means a township or municipal 36690
police department or a county sheriff's office. 36691

(L) "Mental illness" means a substantial disorder of thought, 36692
mood, perception, orientation, or memory that grossly impairs 36693
judgment, behavior, capacity to recognize reality, or ability to 36694
meet the ordinary demands of life. 36695

~~(K)~~(M) "Neglect" means the failure of an adult to provide for 36696
~~self~~ the adult the goods or services necessary to avoid physical 36697
harm, mental anguish, or mental illness or the failure of a 36698
caretaker to provide such goods or services. 36699

~~(L)~~(N) "Peace officer" means a peace officer as defined in 36700
section 2935.01 of the Revised Code. 36701

~~(M)~~(O) "Physical harm" means bodily pain, injury, impairment, 36702
or disease suffered by an adult. 36703

~~(N)~~(P) "Protective services" means services ~~provided by that~~ 36704
the county department of job and family services or ~~its~~ a 36705
designated agency provides to an adult who has been determined by 36706
evaluation to require such services for the prevention, 36707
correction, or discontinuance of an act of as well as conditions 36708
resulting from abuse, neglect, or exploitation. Protective 36709
services may include, but are not limited to, case ~~work~~ management 36710
services, medical care, mental health services, legal services, 36711
fiscal management, home health care, homemaker services, 36712

housing-related services, guardianship services, and placement 36713
services as well as the provision of such commodities as food, 36714
clothing, and shelter. 36715

~~(0)~~(0) "Working day" means Monday, Tuesday, Wednesday, 36716
Thursday, and Friday, except when such day is a holiday as defined 36717
in section 1.14 of the Revised Code. 36718

Sec. 5101.601. (A) An adult protective services system may be 36719
implemented in a county. If implemented, the system shall be 36720
implemented in accordance with sections 5101.60 to 5101.70 of the 36721
Revised Code. In implementing the system, both of the following 36722
apply: 36723

(1) The county department of job and family services may 36724
serve as the administrative agency for the system. 36725

(2) If the department does not serve as the administrative 36726
agency, the board of county commissioners may designate another 36727
county agency to serve as the administrative agency for the 36728
system. If the board makes the designation, all reports received 36729
by the department under section 5101.61 of the Revised Code and 36730
all cases referred to it under section 5126.31 of the Revised Code 36731
shall be referred immediately to the agency. 36732

(B) If an adult protective services system is not implemented 36733
in a county, all reports received by a county department of job 36734
and family services under section 5101.61 of the Revised Code and 36735
all cases referred to it under section 5126.31 of the Revised Code 36736
shall be referred immediately to a law enforcement agency with 36737
jurisdiction in the area in which the abuse, neglect, or 36738
exploitation allegedly occurred or is occurring. The department's 36739
responsibility for the report or case is limited to referring the 36740
report or case to the law enforcement agency. 36741

~~Sec. 5101.61. (A) As used in this section:~~ 36742

~~(1) "Senior service provider" means any person who provides care or services to a person who is an adult as defined in division (B) of section 5101.60 of the Revised Code.~~

~~(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that:~~

~~(a) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient or ambulatory patient, by or under the direction of a physician or dentist in a facility which is not a part of a hospital, but which is organized and operated to provide medical care to outpatients;~~

~~(b) Has health and medical care policies which are developed with the advice of, and with the provision of review of such policies, an advisory committee of professional personnel, including one or more physicians, one or more dentists, if dental care is provided, and one or more registered nurses;~~

~~(c) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;~~

~~(d) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;~~

~~(e) Maintains clinical records on all patients;~~

~~(f) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services~~

~~supervised by a registered professional nurse, and has a 36773
registered professional nurse on duty at all times of clinical 36774
operations; 36775~~

~~(g) Provides approved methods and procedures for the 36776
dispensing and administration of drugs and biologicals; 36777~~

~~(h) Has established an accounting and record keeping system 36778
to determine reasonable and allowable costs; 36779~~

~~(i) "Ambulatory health facilities" also includes an 36780
alcoholism treatment facility approved by the joint commission on 36781
accreditation of healthcare organizations as an alcoholism 36782
treatment facility or certified by the department of alcohol and 36783
drug addiction services, and such facility shall comply with other 36784
provisions of this division not inconsistent with such 36785
accreditation or certification. 36786~~

~~(3) "Community mental health facility" means a facility which 36787
provides community mental health services and is included in the 36788
comprehensive mental health plan for the alcohol, drug addiction, 36789
and mental health service district in which it is located. 36790~~

~~(4) "Community mental health service" means services, other 36791
than inpatient services, provided by a community mental health 36792
facility. 36793~~

~~(5) "Home health agency" means an institution or a distinct 36794
part of an institution operated in this state which: 36795~~

~~(a) Is primarily engaged in providing home health services; 36796~~

~~(b) Has home health policies which are established by a group 36797
of professional personnel, including one or more duly licensed 36798
doctors of medicine or osteopathy and one or more registered 36799
professional nurses, to govern the home health services it 36800
provides and which includes a requirement that every patient must 36801
be under the care of a duly licensed doctor of medicine or 36802~~

osteopathy; 36803

~~(c) Is under the supervision of a duly licensed doctor of medicine or doctor of osteopathy or a registered professional nurse who is responsible for the execution of such home health policies; 36804
36805
36806
36807~~

~~(d) Maintains comprehensive records on all patients; 36808~~

~~(e) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in this state and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in this state, meets all the requirements specified in divisions (A)(5)(a) to (d) of this section, and is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. 36809
36810
36811
36812
36813
36814
36815
36816
36817~~

~~(6) "Home health service" means the following items and services, provided, except as provided in division (A)(6)(g) of this section, on a visiting basis in a place of residence used as the patient's home: 36818
36819
36820
36821~~

~~(a) Nursing care provided by or under the supervision of a registered professional nurse; 36822
36823~~

~~(b) Physical, occupational, or speech therapy ordered by the patient's attending physician; 36824
36825~~

~~(c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician; 36826
36827
36828~~

~~(d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse; 36829
36830
36831~~

~~(e) Medical supplies and the use of medical appliances; 36832~~

~~(f) Medical services of interns and residents in training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician;~~ 36833
36834
36835
36836

~~(g) Any of the foregoing items and services which:~~ 36837

~~(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;~~ 36838
36839
36840

~~(ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient there to receive any item or service involving the use of such equipment.~~ 36841
36842
36843
36844
36845

~~Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of an adult care facility as defined in section 3722.01 of the Revised Code, any employee of a community alternative home as defined in section 3724.01 of the Revised Code, any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, clergyman, any employee of a community mental health facility, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services. This section does not apply to employees of any hospital or public hospital as defined in~~ 36846
36847
36848
36849
36850
36851
36852
36853
36854
36855
36856
36857
36858
36859
36860
36861
36862
36863

~~section 5122.01 of the Revised Code.~~ 36864

~~(B)~~ Any person having reasonable cause to believe that an 36865
adult has suffered abuse, neglect, or exploitation may report, or 36866
cause reports to be made of such belief to the county department 36867
of job and family services, the designated agency if such an 36868
agency exists for the county, or the law enforcement agency with 36869
jurisdiction in the area in which the abuse, neglect, or 36870
exploitation allegedly occurred or is occurring. 36871

~~(C)~~(B) The reports made under this section shall be made 36872
orally or in writing except that oral reports shall be followed by 36873
a written report if a written report is requested by the 36874
~~department~~ entity that receives the report. Written reports shall 36875
include: 36876

(1) The name, address, and approximate age of the adult who 36877
is the subject of the report; 36878

(2) The name and address of the individual responsible for 36879
the adult's care, if any individual is, and if the individual is 36880
known; 36881

(3) The nature and extent of the alleged abuse, neglect, or 36882
exploitation of the adult; 36883

(4) The basis of the reporter's belief that the adult has 36884
been abused, neglected, or exploited. 36885

~~(D)~~(C) Any person with reasonable cause to believe that an 36886
adult is suffering abuse, neglect, or exploitation who makes a 36887
report pursuant to this section or who testifies in any 36888
administrative or judicial proceeding arising from such a report, 36889
or any employee of the state or any of its subdivisions who is 36890
discharging responsibilities under section 5101.62 of the Revised 36891
Code shall be immune from civil or criminal liability on account 36892
of such investigation, report, or testimony, except liability for 36893
perjury, unless the person has acted in bad faith or with 36894

malicious purpose. 36895

~~(E)~~(D) No employer or any other person with the authority to 36896
do so shall discharge, demote, transfer, prepare a negative work 36897
performance evaluation, or reduce benefits, pay, or work 36898
privileges, or take any other action detrimental to an employee or 36899
in any way retaliate against an employee as a result of the 36900
employee's having filed a report under this section. 36901

~~(F)~~(E) Neither the written or oral report provided for in 36902
this section nor the investigatory report provided for in section 36903
5101.62 of the Revised Code shall be considered a public record as 36904
defined in section 149.43 of the Revised Code. Information 36905
contained in ~~the~~ a report to the department or designated agency 36906
shall upon request be made available to the adult who is the 36907
subject of the report, to agencies authorized by the department or 36908
designated agency to receive information contained in the report, 36909
and to legal counsel for the adult. 36910

Sec. 5101.611. If a county department of job and family 36911
services or designated agency knows or has reasonable cause to 36912
believe that the subject of a report made under section 5101.61 or 36913
of an investigation conducted under sections 5101.62 to 5101.64 or 36914
on the initiative of the department or designated agency is 36915
mentally retarded or developmentally disabled as defined in 36916
section 5126.01 of the Revised Code, the department or designated 36917
agency shall refer the case to the county board of mental 36918
retardation and developmental disabilities of that county for 36919
review pursuant to section 5126.31 of the Revised Code. 36920

If a county board of mental retardation and developmental 36921
disabilities refers a case to the county department of job and 36922
family services or designated agency in accordance with section 36923
5126.31, the department or designated agency shall proceed with 36924
the case in accordance with sections 5101.60 to ~~5101.71~~ 5101.70 of 36925

the Revised Code. 36926

Sec. 5101.62. ~~The~~ In implementing an adult protective 36927
services system, a county department of job and family services 36928
~~shall be responsible for the investigation of all~~ or designated 36929
agency may investigate reports ~~provided for in it~~ receives under 36930
section 5101.61 and ~~all~~ cases referred to it under section 5126.31 36931
of the Revised Code ~~and for evaluating.~~ The department or 36932
designated agency may evaluate the need for and, to the extent of 36933
available funds, ~~providing~~ provide or ~~arranging~~ arrange for the 36934
provision of protective services. ~~The department may designate~~ 36935
~~another agency to perform the department's duties under this~~ 36936
~~section.~~ 36937

Investigation of ~~the~~ a report ~~provided for in~~ received under 36938
section 5101.61 or a case referred to the department or designated 36939
agency under section 5126.31 of the Revised Code shall be 36940
initiated within twenty-four hours after the department or 36941
designated agency receives the report or case if any emergency 36942
exists; otherwise investigation shall be initiated within three 36943
working days. 36944

Investigation of the need for protective services shall 36945
include a face-to-face visit with the adult who is the subject of 36946
the report, preferably in the adult's residence, and consultation 36947
with the person who made the report, if feasible, and agencies or 36948
persons who have information about the adult's alleged abuse, 36949
neglect, or exploitation. 36950

The department or designated agency shall give written notice 36951
of the intent of the investigation and an explanation of the 36952
notice in language reasonably understandable to the adult who is 36953
the subject of the investigation, at the time of the initial 36954
interview with that person. 36955

Upon completion of the investigation, the department or 36956

designated agency shall determine from its findings whether or not the adult who is the subject of the report is in need of protective services. No adult shall be determined to be abused, neglected, or in need of protective services for the sole reason that, in lieu of medical treatment, the adult relies on or is being furnished spiritual treatment through prayer alone in accordance with the tenets and practices of a church or religious denomination of which the adult is a member or adherent. The department or designated agency shall write a report which confirms or denies the need for protective services and states why it reached this conclusion.

Sec. 5101.63. If, during the course of an investigation conducted under section 5101.62 of the Revised Code, any person, including the adult who is the subject of the investigation, denies or obstructs access to the residence of the adult, the county department of job and family services or designated agency may file a petition in court for a temporary restraining order to prevent the interference or obstruction. The court shall issue a temporary restraining order to prevent the interference or obstruction if it finds there is reasonable cause to believe that the adult is being or has been abused, neglected, or exploited and access to the person's residence has been denied or obstructed. Such a finding is prima-facie evidence that immediate and irreparable injury, loss, or damage will result, so that notice is not required. After obtaining an order restraining the obstruction of or interference with the access of the protective services representative, the representative may be accompanied to the residence by a peace officer.

Sec. 5101.65. ~~If the county department of job and family services~~ Any person or government entity that determines that an adult is in need of protective services and is an incapacitated

person, ~~the department~~ may petition the court for an order 36988
authorizing the provision of locally available protective 36989
services. The petition shall state the specific facts alleging the 36990
abuse, neglect, or exploitation and shall include a proposed 36991
protective service plan. Any plan for protective services shall be 36992
specified in the petition. 36993

Sec. 5101.67. (A) The court shall hold a hearing on the 36994
petition as provided in section 5101.65 of the Revised Code within 36995
fourteen days after its filing. The adult who is the subject of 36996
the petition shall have the right to be present at the hearing, 36997
present evidence, and examine and cross-examine witnesses. The 36998
adult shall be represented by counsel unless the right to counsel 36999
is knowingly waived. If the adult is indigent, the court shall 37000
appoint counsel to represent the adult. If the court determines 37001
that the adult lacks the capacity to waive the right to counsel, 37002
the court shall appoint counsel to represent the adult's 37003
interests. 37004

(B) If the court finds, on the basis of clear and convincing 37005
evidence, that the adult has been abused, neglected, or exploited, 37006
is in need of protective services, and is incapacitated, and no 37007
person authorized by law or by court order is available to give 37008
consent, it shall issue an order requiring the provision of 37009
protective services only if they are available locally. 37010

(C) If the court orders placement under this section it shall 37011
give consideration to the choice of residence of the adult. The 37012
court may order placement in settings which have been approved by 37013
the county department of job and family services or designated 37014
agency as meeting at least minimum community standards for safety, 37015
security, and the requirements of daily living. The court shall 37016
not order an institutional placement unless it has made a specific 37017
finding entered in the record that no less restrictive alternative 37018

can be found to meet the needs of the individual. No individual 37019
may be committed to a hospital or public hospital as defined in 37020
section 5122.01 of the Revised Code pursuant to this section. 37021

(D) The placement of an adult pursuant to court order as 37022
provided in this section shall not be changed unless the court 37023
authorized the transfer of placement after finding compelling 37024
reasons to justify the transfer. Unless the court finds that an 37025
emergency exists, the court shall notify the adult of a transfer 37026
at least thirty days prior to the actual transfer. 37027

(E) A court order provided for in this section shall remain 37028
in effect for no longer than six months. Thereafter, ~~the county~~ 37029
~~department of job and family services shall review the adult's~~ 37030
~~need for continued services and, if the department determines that~~ 37031
~~there is a continued need, it shall~~ any person or government 37032
entity may apply for a renewal of the order for additional periods 37033
of no longer than one year each. The adult who is the subject of 37034
the court-ordered services may petition for modification of the 37035
order at any time. 37036

Sec. 5101.68. (A) If an adult has consented to the provision 37037
of protective services but any other person refuses to allow such 37038
provision, the county department of human services or designated 37039
agency may petition the court for a temporary restraining order to 37040
restrain the person from interfering with the provision of 37041
protective services for the adult. 37042

(B) The petition shall state specific facts sufficient to 37043
demonstrate the need for protective services, the consent of the 37044
adult, and the refusal of some other person to allow the provision 37045
of these services. 37046

(C) Notice of the petition shall be given in language 37047
reasonably understandable to the person alleged to be interfering 37048
with the provision of services+. 37049

(D) The court shall hold a hearing on the petition within 37050
fourteen days after its filing. If the court finds that the 37051
protective services are necessary, that the adult has consented to 37052
the provisions of such services, and that the person who is the 37053
subject of the petition has prevented such provision, the court 37054
shall issue a temporary restraining order to restrain the person 37055
from interfering with the provision of protective services to the 37056
adult. 37057

Sec. 5101.69. (A) Upon petition by ~~the county department of~~ 37058
~~human services~~ any person or government entity, the court may 37059
issue an order authorizing the provision of protective services on 37060
an emergency basis to an adult. The petition for any emergency 37061
order shall include: 37062

(1) The name, age, and address of the adult in need of 37063
protective services; 37064

(2) The nature of the emergency; 37065

(3) The proposed protective services; 37066

(4) The petitioner's reasonable belief, together with facts 37067
supportive thereof, as to the existence of the circumstances 37068
described in divisions (D)(1) to (3) of this section; 37069

(5) Facts showing the petitioner's attempts to obtain the 37070
adult's consent to the protective services. 37071

(B) Notice of the filing and contents of the petition 37072
provided for in division (A) of this section, the rights of the 37073
person in the hearing provided for in division (C) of this 37074
section, and the possible consequences of a court order, shall be 37075
given to the adult. Notice shall also be given to the spouse of 37076
the adult or, if ~~he~~ the adult has none, to ~~his~~ the adult's adult 37077
children or next of kin, and ~~his~~ the adult's guardian, if any, if 37078
~~his~~ the guardian's whereabouts are known. The notice shall be 37079

given in language reasonably understandable to its recipients at 37080
least twenty-four hours prior to the hearing provided for in this 37081
section. The court may waive the twenty-four hour notice 37082
~~requirement~~ requirement upon a showing that: 37083

(1) Immediate and irreparable physical harm to the adult or 37084
others will result from the twenty-four hour delay; and 37085

(2) Reasonable attempts have been made to notify the adult, 37086
~~his~~ the adult's spouse, or, if ~~he~~ the adult has none, ~~his~~ the 37087
adult's adult children or next of kin, if any, and ~~his~~ the adult's 37088
guardian, if any, if ~~his~~ the guardian's whereabouts are known. 37089

Notice of the court's determination shall be given to all 37090
persons receiving notice of the filing of the petition provided 37091
for in this division. 37092

(C) Upon receipt of a petition for an order for emergency 37093
services, the court shall hold a hearing no sooner than 37094
twenty-four and no later than seventy-two hours after the notice 37095
provided for in division (B) of this section has been given, 37096
unless the court has waived the notice. The adult who is the 37097
subject of the petition shall have the right to be present at the 37098
hearing, present, evidence, and examine and cross-examine 37099
witnesses. 37100

(D) The court shall issue an order authorizing the provision 37101
of protective services on an emergency basis if it finds, on the 37102
basis of clear and convincing evidence, that: 37103

(1) The adult is an incapacitated person; 37104

(2) An emergency exists; 37105

(3) No person authorized by law or court order to give 37106
consent for the adult is available or willing to consent to 37107
emergency services. 37108

(E) In issuing an emergency order, the court shall adhere to 37109

the following limitations: 37110

(1) The court shall order only such protective services as 37111
are necessary and available locally to remove the conditions 37112
creating the emergency, and the court shall specifically designate 37113
those protective services the adult shall receive; 37114

(2) The court shall not order any change of residence under 37115
this section unless the court specifically finds that a change of 37116
residence is necessary; 37117

(3) The court may order emergency ~~services~~ services only for 37118
fourteen days. ~~The department~~ Any person or government entity may 37119
petition the court for a renewal of the order for a fourteen-day 37120
period upon a showing that continuation of the order is necessary 37121
to remove the emergency. 37122

(4) In its order the court shall authorize ~~the director of~~ 37123
~~the department or his designee to give consent for the person for~~ 37124
the approved emergency services until the expiration of the order; 37125

(5) The court shall not order a person to a hospital or 37126
public hospital as defined in section 5122.01 of the Revised Code. 37127

(F) If ~~the department~~ any person or government entity 37128
determines that the adult continues to need protective services 37129
after the order provided for in division (D) of this section has 37130
expired, the ~~department~~ person or government entity may petition 37131
the court for an order to continue protective services that are 37132
available locally, pursuant to section 5101.65 of the Revised 37133
Code. After the filing of the petition, the department or 37134
designated agency may continue to provide protective services 37135
pending a hearing by the court. If no petition is filed pursuant 37136
to this division and the court determines that the adult continues 37137
to need protective services, the court on its own motion may order 37138
the continuation of protective services that are available 37139
locally. 37140

Sec. 5101.70. (A) ~~If~~ In implementing an adult protective services system, if it appears that an adult in need of protective services has the financial means sufficient to pay for such services, the county department of job and family services or designated agency shall make an evaluation regarding such means. If the evaluation establishes that the adult has such financial means, the department or designated agency shall initiate procedures for reimbursement ~~pursuant to rules promulgated by the department~~. If the evaluation establishes that the adult does not have such financial means, the services shall be provided if available locally and in accordance with the policies and procedures established by the department ~~of job and family services for the provision of welfare assistance~~ or designated agency. An adult shall not be required to pay for court-ordered protective services unless the court determines upon a showing by the department that the adult is financially able to pay and the court orders the adult to pay.

(B) Whenever the department or designated agency has petitioned the court to authorize the provision of protective services and the adult who is the subject of the petition is indigent, the court shall appoint legal counsel.

Sec. 5101.75. (A) As used in sections 5101.75, 5101.751, 5101.752, 5101.753, and 5101.754 of the Revised Code:

(1) "Alternative source of long-term care" includes a residential care facility licensed under Chapter 3721. of the Revised Code, an adult care facility licensed under Chapter 3722. of the Revised Code, home and community-based services, and a nursing home licensed under Chapter 3721. of the Revised Code that is not a nursing facility.

(2) "Medicaid" means the medical assistance program

established under Chapter 5111. of the Revised Code. 37171

(3) "Nursing facility" has the same meaning as in section 37172
5111.20 of the Revised Code. 37173

(4) "Representative" means a person acting on behalf of an 37174
applicant for admission to a nursing facility. A representative 37175
may be a family member, attorney, hospital social worker, or any 37176
other person chosen to act on behalf of an applicant. 37177

(5) "Third-party payment source" means a third-party payer as 37178
defined in section 3901.38 of the Revised Code or medicaid. 37179

(B) Effective July 1, 1994, the department of job and family 37180
services may assess a person applying or intending to apply for 37181
admission to a nursing facility who is not an applicant for or 37182
recipient of medicaid to determine whether the person is in need 37183
of nursing facility services and whether an alternative source of 37184
long-term care is more appropriate for the person in meeting the 37185
person's physical, mental, and psychosocial needs than admission 37186
to the facility to which the person has applied. 37187

Each assessment shall be performed by the department or an 37188
agency designated by the department under section 5101.751 of the 37189
Revised Code and shall be based on information provided by the 37190
person or the person's representative. It shall consider the 37191
person's physical, mental, and psychosocial needs and the 37192
availability and effectiveness of informal support and care. The 37193
department or designated agency shall determine the person's 37194
physical, mental, and psychosocial needs by using, to the maximum 37195
extent appropriate, information from the resident assessment 37196
~~instrument~~ medium or media specified in rules adopted by the 37197
department under ~~division (A)~~ of section 5111.231 of the Revised 37198
Code. The department or designated agency shall also use the 37199
criteria and procedures established in rules adopted by the 37200
department under division (I) of this section. Assessments may be 37201

performed only by persons certified by the department under 37202
section 5101.752 of the Revised Code. The department or designated 37203
agency shall make a recommendation on the basis of the assessment 37204
and, not later than the time the assessment is required to be 37205
performed under division (D) of this section, give the person 37206
assessed written notice of the recommendation, which shall explain 37207
the basis for the recommendation. If the department or designated 37208
agency determines pursuant to an assessment that an alternative 37209
source of long-term care is more appropriate for the person than 37210
admission to the facility to which the person has applied, the 37211
department or designated agency shall include in the notice 37212
possible sources of financial assistance for the alternative 37213
source of long-term care. If the department or designated agency 37214
has been informed that the person has a representative, it shall 37215
give the notice to the representative. 37216

(C) A person is not required to be assessed under division 37217
(B) of this section if any of the following apply: 37218

(1) The circumstances specified by rules adopted under 37219
division (I) of this section exist. 37220

(2) The person is to receive care in a nursing facility under 37221
a contract for continuing care as defined in section 173.13 of the 37222
Revised Code. 37223

(3) The person has a contractual right to admission to a 37224
nursing facility operated as part of a system of continuing care 37225
in conjunction with one or more facilities that provide a less 37226
intensive level of services, including a residential care facility 37227
licensed under Chapter 3721. of the Revised Code, an adult-care 37228
facility licensed under Chapter 3722. of the Revised Code, or an 37229
independent living arrangement; 37230

(4) The person is to receive continual care in a home for the 37231
aged exempt from taxation under section 5701.13 of the Revised 37232

Code;	37233
(5) The person is to receive care in the nursing facility for not more than fourteen days in order to provide temporary relief to the person's primary caregiver and the nursing facility notifies the department of the person's admittance not later than twenty-four hours after admitting the person;	37234 37235 37236 37237 37238
(6) The person is to be transferred from another nursing facility, unless the nursing facility from which or to which the person is to be transferred determines that the person's medical condition has changed substantially since the person's admission to the nursing facility from which the person is to be transferred or a review is required by a third-party payment source;	37239 37240 37241 37242 37243 37244
(7) The person is to be readmitted to a nursing facility following a period of hospitalization, unless the hospital or nursing facility determines that the person's medical condition has changed substantially since the person's admission to the hospital, or a review is required by a third-party payment source;	37245 37246 37247 37248 37249
(8) The department or designated agency fails to complete an assessment within the time required by division (D) or (E) of this section or determines after a partial assessment that the person should be exempt from the assessment.	37250 37251 37252 37253
(D) The department or designated agency shall perform a complete assessment, or, if circumstances provided by rules adopted under division (I) of this section exist, a partial assessment, as follows:	37254 37255 37256 37257
(1) In the case of a hospitalized person applying or intending to apply to a nursing facility, not later than two working days after the person or the person's representative is notified that a bed is available in a nursing facility;	37258 37259 37260 37261
(2) In the case of an emergency as determined in accordance with rules adopted under division (I) of this section, not later	37262 37263

than one working day after the person or the person's 37264
representative is notified that a bed is available in a nursing 37265
facility; 37266

(3) In all other cases, not later than five calendar days 37267
after the person or the person's representative who submits the 37268
application is notified that a bed is available in a nursing 37269
facility. 37270

(E) If the department or designated agency conducts a partial 37271
assessment under division (D) of this section, it shall complete 37272
the rest of the assessment not later than one hundred eighty days 37273
after the date the person is admitted to the nursing facility 37274
unless the assessment entity determines the person should be 37275
exempt from the assessment. 37276

(F) A person assessed under this section or the person's 37277
representative may file a complaint with the department about the 37278
assessment process. The department shall work to resolve the 37279
complaint in accordance with rules adopted under division (I) of 37280
this section. 37281

(G) A person is not required to seek an alternative source of 37282
long-term care and may be admitted to or continue to reside in a 37283
nursing facility even though an alternative source of long-term 37284
care is available or the person is determined pursuant to an 37285
assessment under this section not to need nursing facility 37286
services. 37287

(H) No nursing facility ~~with~~ for which an operator has a 37288
provider agreement with the department under section 5111.22 of 37289
the Revised Code shall admit or retain any person, other than a 37290
person exempt from the assessment requirement as provided by 37291
division (C) of this section, as a resident unless the nursing 37292
facility has received evidence that a complete or partial 37293
assessment has been completed. 37294

(I) The director of job and family services shall adopt rules 37295
in accordance with Chapter 119. of the Revised Code to implement 37296
and administer this section. The rules shall include all of the 37297
following: 37298

(1) The information a person being assessed or the person's 37299
representative must provide to enable the department or designated 37300
agency to do the assessment; 37301

(2) Criteria to be used to determine whether a person is in 37302
need of nursing facility services; 37303

(3) Criteria to be used to determine whether an alternative 37304
source of long-term care is appropriate for the person being 37305
assessed; 37306

(4) Criteria and procedures to be used to determine a 37307
person's physical, mental, and psychosocial needs; 37308

(5) Criteria to be used to determine the effectiveness and 37309
continued availability of a person's current source of informal 37310
support and care; 37311

(6) Circumstances, in addition to those specified in division 37312
(C) of this section, under which a person is not required to be 37313
assessed; 37314

(7) Circumstances under which the department or designated 37315
agency may perform a partial assessment under division (D) of this 37316
section; 37317

(8) The method by which a situation will be determined to be 37318
an emergency for the purpose of division (D)(2) of this section; 37319

(9) The method by which the department will attempt to 37320
resolve complaints filed under division (F) of this section. 37321

(J) The director of job and family services may fine a 37322
nursing facility an amount determined by rules the director shall 37323
adopt in accordance with Chapter 119. of the Revised Code in 37324

either of the following circumstances:	37325
(1) The nursing facility fails to notify the department	37326
within the required time about an admission described in division	37327
(C)(5) of this section;	37328
(2) The nursing facility admits, without evidence that a	37329
complete or partial assessment has been conducted, a person other	37330
than a person exempt from the assessment requirement as provided	37331
by division (C) of this section.	37332
The director shall deposit all fines collected under this	37333
division into the residents protection fund established by section	37334
5111.62 of the Revised Code.	37335
Sec. 5101.80. (A) As used in this section and in section	37336
5101.801 of the Revised Code:	37337
(1) "County family services agency" has the same meaning as	37338
in section 307.981 of the Revised Code.	37339
(2) "State agency" has the same meaning as in section 9.82 of	37340
the Revised Code.	37341
(3) "Title IV-A program" means all of the following that are	37342
funded in part with funds provided under the temporary assistance	37343
for needy families block grant established by Title IV-A of the	37344
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as	37345
amended:	37346
(a) The Ohio works first program established under Chapter	37347
5107. of the Revised Code;	37348
(b) The prevention, retention, and contingency program	37349
established under Chapter 5108. of the Revised Code;	37350
(c) A program established by the general assembly or an	37351
executive order issued by the governor that is administered or	37352
supervised by the department of job and family services pursuant	37353

to section 5101.801 of the Revised Code; 37354

(d) A component of a Title IV-A program identified under 37355
divisions (A)(3)(a) to (c) of this section that the Title IV-A 37356
state plan prepared under division (C)(1) of this section 37357
identifies as a component. 37358

(B) The department of job and family services shall act as 37359
the single state agency to administer and supervise the 37360
administration of Title IV-A programs. The Title IV-A state plan 37361
and amendments to the plan prepared under division (C) of this 37362
section are binding on county family services agencies and state 37363
agencies that administer a Title IV-A program. No county family 37364
services agency or state agency administering a Title IV-A program 37365
may establish, by rule or otherwise, a policy governing the Title 37366
IV-A program that is inconsistent with a Title IV-A program policy 37367
established, in rule or otherwise, by the director of job and 37368
family services. 37369

(C) The department of job and family services shall do all of 37370
the following: 37371

(1) Prepare and submit to the United States secretary of 37372
health and human services a Title IV-A state plan for Title IV-A 37373
programs; 37374

(2) Prepare and submit to the United States secretary of 37375
health and human services amendments to the Title IV-A state plan 37376
that the department determines necessary, including amendments 37377
necessary to implement Title IV-A programs identified in division 37378
(A)(3)(c) and (d) of this section; 37379

(3) Prescribe forms for applications, certificates, reports, 37380
records, and accounts of county family services agencies and state 37381
agencies administering a Title IV-A program, and other matters 37382
related to Title IV-A programs; 37383

(4) Make such reports, in such form and containing such 37384

information as the department may find necessary to assure the 37385
correctness and verification of such reports, regarding Title IV-A 37386
programs; 37387

(5) Require reports and information from each county family 37388
services agency and state agency administering a Title IV-A 37389
program as may be necessary or advisable regarding the Title IV-A 37390
program; 37391

(6) Afford a fair hearing in accordance with section 5101.35 37392
of the Revised Code to any applicant for, or participant or former 37393
participant of, a Title IV-A program aggrieved by a decision 37394
regarding the program; 37395

(7) Administer and expend, pursuant to Chapters 5104., 5107., 37396
and 5108. of the Revised Code and section 5101.801 of the Revised 37397
Code, any sums appropriated by the general assembly for the 37398
purpose of those chapters and section and all sums paid to the 37399
state by the secretary of the treasury of the United States as 37400
authorized by Title IV-A of the "Social Security Act," 110 Stat. 37401
2113 (1996), 42 U.S.C. 601, as amended; 37402

(8) Conduct investigations and audits as are necessary 37403
regarding Title IV-A programs; 37404

(9) Enter into reciprocal agreements with other states 37405
relative to the provision of Ohio works first and prevention, 37406
retention, and contingency to residents and nonresidents; 37407

(10) Contract with a private entity to conduct an independent 37408
on-going evaluation of the Ohio works first program and the 37409
prevention, retention, and contingency program. The contract must 37410
require the private entity to do all of the following: 37411

(a) Examine issues of process, practice, impact, and 37412
outcomes; 37413

(b) Study former participants of Ohio works first who have 37414

not participated in Ohio works first for at least one year to 37415
determine whether they are employed, the type of employment in 37416
which they are engaged, the amount of compensation they are 37417
receiving, whether their employer provides health insurance, 37418
whether and how often they have received benefits or services 37419
under the prevention, retention, and contingency program, and 37420
whether they are successfully self sufficient; 37421

(c) Provide the department with reports at times the 37422
department specifies. 37423

(11) Not later than January 1, 2001, and the first day of 37424
each January and July thereafter, prepare a report containing 37425
information on the following: 37426

(a) Individuals exhausting the time limits for participation 37427
in Ohio works first set forth in section 5107.18 of the Revised 37428
Code. 37429

(b) Individuals who have been exempted from the time limits 37430
set forth in section 5107.18 of the Revised Code and the reasons 37431
for the exemption. 37432

(12) Not later than January 1, 2001, and on a quarterly basis 37433
thereafter until December 1, 2003, prepare, to the extent the 37434
necessary data is available to the department, a report based on 37435
information determined under section 5107.80 of the Revised Code 37436
that states how many former Ohio works first participants entered 37437
the workforce during the most recent previous quarter for which 37438
the information is known and includes information regarding the 37439
earnings of those former participants. The report shall include a 37440
county-by-county breakdown and shall not contain the names or 37441
social security numbers of former participants. 37442

(13) To the extent authorized by section 5101.801 of the 37443
Revised Code, enter into interagency agreements with state 37444
agencies for the administration of Title IV-A programs identified 37445

under division (A)(3)(c) and (d) of this section. 37446

(D) The department shall provide copies of the reports it 37447
receives under division (C)(10) of this section and prepares under 37448
divisions (C)(11) and (12) of this section to the governor, the 37449
president and minority leader of the senate, and the speaker and 37450
minority leader of the house of representatives. The department 37451
shall provide copies of the reports to any private or government 37452
entity on request. 37453

(E) An authorized representative of the department or a 37454
county family services agency or state agency administering a 37455
Title IV-A program shall have access to all records and 37456
information bearing thereon for the purposes of investigations 37457
conducted pursuant to this section. 37458

Sec. 5101.83. (A) As used in this section: 37459

(1) "Assistance group" has the same meaning as in ~~sections~~ 37460
section 5107.02 ~~and 5108.01~~ of the Revised Code, except that it 37461
also means a group provided benefits and services under the 37462
prevention, retention, and contingency program ~~because the members~~ 37463
~~of the group share a common need for benefits and services.~~ 37464

(2) "Fraudulent assistance" means assistance and service, 37465
including cash assistance, provided under the Ohio works first 37466
program established under Chapter 5107., or benefits and services 37467
provided under the prevention, retention, and contingency program 37468
established under Chapter 5108. of the Revised Code, to or on 37469
behalf of an assistance group that is provided as a result of 37470
fraud by a member of the assistance group, including an 37471
intentional violation of the program's requirements. "Fraudulent 37472
assistance" does not include assistance or services to or on 37473
behalf of an assistance group that is provided as a result of an 37474
error that is the fault of a county department of job and family 37475
services or the state department of job and family services. 37476

(B) If a county director of job and family services 37477
determines that an assistance group has received fraudulent 37478
assistance, the assistance group is ineligible to participate in 37479
the Ohio works first program or the prevention, retention, and 37480
contingency program until a member of the assistance group repays 37481
the cost of the fraudulent assistance. If a member repays the cost 37482
of the fraudulent assistance and the assistance group otherwise 37483
meets the eligibility requirements for the Ohio works first 37484
program or the prevention, retention, and contingency program, the 37485
assistance group shall not be denied the opportunity to 37486
participate in the program. 37487

This section does not limit the ability of a county 37488
department of job and family services to recover erroneous 37489
payments under section 5107.76 of the Revised Code. 37490

The state department of job and family services shall adopt 37491
rules in accordance with Chapter 119. of the Revised Code to 37492
implement this section. 37493

Sec. 5101.97. (A)(1) Not later than the ~~first~~ last day of 37494
each July and January, the department of job and family services 37495
shall complete a report on the characteristics of the individuals 37496
who participate in or receive services through the programs 37497
operated by the department and the outcomes of the individuals' 37498
participation in or receipt of services through the programs. The 37499
~~report~~ reports shall be for the six-month periods ending on the 37500
last days of June and December and shall include information on 37501
the following: 37502

(a) Work activities, developmental activities, and 37503
alternative work activities established under sections 5107.40 to 37504
5107.69 of the Revised Code; 37505

(b) Programs of publicly funded child day-care, as defined in 37506

section 5104.01 of the Revised Code; 37507

(c) Child support enforcement programs; 37508

(d) Births to recipients of the medical assistance program 37509
established under Chapter 5111. of the Revised Code. 37510

(2) ~~Not later than the first day of each July, the department 37511
shall complete a progress report on the partnership agreements 37512
between the director of job and family services and boards of 37513
county commissioners under section 5101.21 of the Revised Code. 37514
The report shall include a review of whether the county family 37515
services agencies and workforce development agencies satisfied 37516
performance standards included in the agreements and whether the 37517
department provided assistance, services, and technical support 37518
specified in the agreements to aid the agencies in meeting the 37519
performance standards.~~ 37520

~~(3) The department shall submit the reports required under 37521
divisions division (A)(1) and (2) of this section to the speaker 37522
and minority leader of the house of representatives, the president 37523
and minority leader of the senate, the legislative budget officer, 37524
the director of budget and management, and each board of county 37525
commissioners. The department shall provide copies of ~~each report~~ 37526
the reports to any person or government entity on request. 37527~~

In designing the format for ~~each report~~ the reports, the 37528
department shall consult with individuals, organizations, and 37529
government entities interested in the programs operated by the 37530
department, so that the reports are designed to enable the general 37531
assembly and the public to evaluate the effectiveness of the 37532
programs and identify any needs that the programs are not meeting. 37533

(B) Whenever the federal government requires that the 37534
department submit a report on a program that is operated by the 37535
department or is otherwise under the department's jurisdiction, 37536
the department shall prepare and submit the report in accordance 37537

with the federal requirements applicable to that report. To the 37538
extent possible, the department may coordinate the preparation and 37539
submission of a particular report with any other report, plan, or 37540
other document required to be submitted to the federal government, 37541
as well as with any report required to be submitted to the general 37542
assembly. The reports required by the Personal Responsibility and 37543
Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) may be 37544
submitted as an annual summary. 37545

Sec. 5101.99. ~~(A) Whoever violates division (A) or (B) of 37546
section 5101.61 of the Revised Code shall be fined not more than 37547
five hundred dollars. 37548~~

~~(B) Whoever violates division (A) of section 5101.27 of the 37549
Revised Code is guilty of a misdemeanor of the first degree. 37550~~

Sec. 5103.031. (A) Except as provided in section 5103.033 of 37551
the Revised Code, the department of job and family services may 37552
not issue a certificate under section 5103.03 of the Revised Code 37553
to a foster home unless the foster caregiver successfully 37554
completes the following amount of preplacement training through 37555
~~the Ohio child welfare training program or~~ a preplacement training 37556
program operated under section 5103.034 or 5153.60 of the Revised 37557
Code: 37558

(1) If the foster home is a family foster home, at least 37559
twelve hours; 37560

(2) If the foster home is a specialized foster home, at least 37561
thirty-six hours. 37562

(B) No child may be placed in a family foster home unless the 37563
foster caregiver completes at least twelve additional hours of 37564
preplacement training through ~~the Ohio child welfare training 37565
program or~~ a preplacement training program operated under section 37566
5103.034 or 5153.60 of the Revised Code. 37567

Sec. 5103.033. The department of job and family services may 37568
issue or renew a certificate under section 5103.03 of the Revised 37569
Code to a foster home for the care of a child who is in the 37570
custody of a public children services agency or private child 37571
placing agency pursuant to an agreement entered into under section 37572
5103.15 of the Revised Code regarding a child who was less than 37573
six months of age on the date the agreement was executed if the 37574
foster caregiver successfully completes the following amount of 37575
training: 37576

(A) For an initial certificate, at least twelve hours of 37577
preplacement training through ~~the Ohio child welfare training~~ 37578
~~program~~ or a preplacement training program operated under section 37579
5103.034 or 5153.60 of the Revised Code; 37580

(B) For renewal of a certificate, at least twelve hours each 37581
year of continuing training in accordance with the foster 37582
caregiver's needs assessment and continuing training plan 37583
developed and implemented under section 5103.035 of the Revised 37584
Code. 37585

Sec. 5103.034. (A) A public children services agency, private 37586
child placing agency, or private noncustodial agency operating a 37587
preplacement training program or continuing training program 37588
approved by the department of job and family services under 37589
section 5103.038 of the Revised Code or the Ohio child welfare 37590
training program operating a preplacement training program or 37591
continuing training program pursuant to section 5153.60 of the 37592
Revised Code shall make the program available to foster 37593
caregivers. The agency or program shall make the programs 37594
available without regard to the type of recommending agency from 37595
which a foster caregiver seeks a recommendation ~~and without charge~~ 37596
~~to the foster caregiver.~~ 37597

(B) A private child placing agency or private noncustodial agency operating a preplacement training program or continuing training program approved by the department of job and family services under section 5103.038 of the Revised Code may condition the enrollment of a foster caregiver in a program on either or both of the following: 37598
37599
37600
37601
37602
37603

(1) Availability of space in the training program; 37604

(2) If applicable, payment of an instruction or registration fee, if any, by the foster caregiver's recommending agency. 37605
37606

(C) The Ohio child welfare training program operating a preplacement training program or continuing training program pursuant to section 5153.60 of the Revised Code may condition the enrollment in a preplacement training program or continuing training program of a foster caregiver whose recommending agency is a private child placing agency or private noncustodial agency on either or both of the following: 37607
37608
37609
37610
37611
37612
37613

(1) Availability of space in the training program; 37614

(2) Assignment to the program by the foster caregiver's recommending agency of the allowance payable under section 5103.0313 of the Revised Code. 37615
37616
37617

(D) A private child placing agency or private noncustodial agency may contract with an individual or a public or private entity to administer a preplacement training program or continuing training program operated by the agency and approved by the department of job and family services under section 5103.038 of the Revised Code. 37618
37619
37620
37621
37622
37623

Sec. 5103.036. For the purpose of determining whether a foster caregiver has satisfied the requirement of section 5103.031 or 5103.032 of the Revised Code, a recommending agency shall accept training obtained from ~~the Ohio child welfare training~~ 37624
37625
37626
37627

~~program or pursuant to~~ a preplacement training program or 37628
continuing training program operated under section 5103.034 or 37629
5153.60 of the Revised Code regardless of whether the program is 37630
operated by the recommending agency ~~operated the preplacement~~ 37631
~~training program or continuing training program~~. The agency may 37632
require that the foster caregiver successfully complete additional 37633
training as a condition of the agency recommending that the 37634
department of job and family services certify or recertify the 37635
foster caregiver's foster home under section 5103.03 of the 37636
Revised Code. 37637

Sec. 5103.037. The department of job and family services, in 37638
consultation with the departments of youth services, mental 37639
health, education, mental retardation and developmental 37640
disabilities, and alcohol and drug addiction services, shall 37641
develop a model design of a preplacement training program for 37642
foster caregivers seeking an initial certificate under section 37643
5103.03 of the Revised Code and a model design of a continuing 37644
training program for foster caregivers seeking renewal of a 37645
certificate under that section. The model design of a preplacement 37646
training program shall comply with section 5103.039 of the Revised 37647
Code. The model design of a continuing training program shall 37648
comply with section 5103.0310 of the Revised Code. The department 37649
of job and family services shall make the model designs available 37650
to ~~public children services agencies~~ the Ohio child welfare 37651
training program, private child placing agencies, and private 37652
noncustodial agencies. 37653

Sec. 5103.038. (A) Every other year by a date specified in 37654
rules adopted under section 5103.0316 of the Revised Code, each 37655
~~public children services agency~~, private child placing agency, and 37656
private noncustodial agency that seeks to operate a preplacement 37657
training program or continuing training program under section 37658

5103.034 of the Revised Code shall submit to the department of job 37659
and family services a proposal outlining the program. The proposal 37660
may be the same as, a modification of, or different from, a model 37661
design developed under section 5103.037 of the Revised Code. ~~The 37662
proposal shall include a budget for the program regarding the cost 37663
associated with trainers, obtaining sites at which the training is 37664
provided, and the administration of the training. The budget shall 37665
be consistent with rules adopted under section 5103.0316 of the 37666
Revised Code governing the department of job and family services' 37667
reimbursement of public children services agencies, private child 37668
placing agencies, and private noncustodial agencies under section 37669
5103.0313 of the Revised Code.~~ 37670

(B) Not later than thirty days after receiving a proposal 37671
under division (A) of this section, the department shall either 37672
approve or disapprove the proposed program. The department shall 37673
approve a proposed preplacement training program if it complies 37674
with section 5103.039 or 5103.0310 of the Revised Code, as 37675
appropriate, and, in the case of a proposal submitted by an agency 37676
operating a preplacement training program at the time the proposal 37677
is submitted, the department is satisfied with the agency's 37678
operation of the program. The department shall approve a proposed 37679
continuing training program if it complies with section 5103.0310 37680
or 5103.0311 of the Revised Code, as appropriate, and, in the case 37681
of a proposal submitted by an agency operating a continuing 37682
training program at the time the proposal is submitted, the 37683
department is satisfied with the agency's operation of the 37684
program. ~~The department shall disapprove a proposed program if the 37685
program's budget is not consistent with rules adopted under 37686
section 5103.0316 of the Revised Code governing the department's 37687
reimbursement of public children services agencies, private child 37688
placing agencies, and private noncustodial agencies under section 37689
5103.0313 of the Revised Code.~~ If the department disapproves a 37690
proposal, it shall provide the reason for disapproval to the 37691

agency that submitted the proposal and advise the agency of how to 37692
revise the proposal so that the department can approve it. 37693

(C) The department's approval under division (B) of this 37694
section of a proposed preplacement training program or continuing 37695
training program is valid only for two years following the year 37696
the proposal for the program is submitted to the department under 37697
division (A) of this section. 37698

Sec. 5103.0312. A public children services agency, private 37699
child placing agency, or private noncustodial agency acting as a 37700
recommending agency for foster caregivers who hold certificates 37701
issued under section 5103.03 of the Revised Code shall pay those 37702
foster caregivers ~~who have had at least one foster child placed in~~ 37703
~~their home~~ a stipend to reimburse them for attending ~~training~~ 37704
~~courses provided by the Ohio child welfare training program or~~ 37705
~~pursuant to~~ a preplacement training program or continuing training 37706
program operated under section 5103.034 or 5153.60 of the Revised 37707
Code. The payment shall be based on a stipend rate established by 37708
the department of job and family services. The stipend rate shall 37709
be the same regardless of the type of recommending agency from 37710
which a foster caregiver seeks a recommendation. The department 37711
shall, pursuant to rules adopted under section 5103.0316 of the 37712
Revised Code, reimburse the recommending agency for stipend 37713
payments it makes in accordance with this section. 37714

Sec. 5103.0313. The department of job and family services 37715
shall ~~reimburse the following~~ compensate a private child placing 37716
agency or private noncustodial agency for the cost of ~~providing~~ 37717
procuring or operating preplacement and continuing training ~~to~~ 37718
~~foster caregivers.~~ 37719

~~(A) The Ohio child welfare training program;~~ 37720

~~(B) A public children services agency, private child placing~~ 37721

~~agency, or private noncustodial agency through a preplacement training program or continuing training program operated programs under section 5103.034 of the Revised Code for foster caregivers who are recommended for initial certification or recertification by the agency.~~ 37722
37723
37724
37725
37726

~~The ~~reimbursement~~ compensation shall be ~~on a per diem basis~~ and limited to the cost associated with the trainer, obtaining a site at which the training is provided, and the administration of the training paid to the agency in the form of an allowance for each hour of preplacement and continuing training provided or received. A reimbursement rate shall be the same regardless of whether the training program is operated by the Ohio child welfare training program or a public children services agency, private child placing agency, or private noncustodial agency.~~ 37727
37728
37729
37730
37731
37732
37733
37734
37735

Sec. 5103.0314. The department of job and family services shall not ~~reimburse~~ compensate a recommending agency for ~~the cost~~ of any training the agency requires a foster caregiver to undergo as a condition of the agency recommending the department certify or recertify the foster caregiver's foster home under section 5103.03 of the Revised Code if the training is in addition to the minimum training required by section 5103.031 or 5103.032 of the Revised Code. 37736
37737
37738
37739
37740
37741
37742
37743

Sec. 5103.0315. The department of job and family services shall seek federal financial participation for the cost of making payments under section 5103.0312 of the Revised Code and ~~reimbursements~~ allowances under section 5103.0313 of the Revised Code. The department shall notify the governor, president of the senate, minority leader of the senate, speaker of the house of representatives, and minority leader of the house of representatives of any proposed federal legislation that endangers the federal financial participation. 37744
37745
37746
37747
37748
37749
37750
37751
37752

Sec. 5103.0316. ~~Not later than ninety days after January 1,~~ 37753
~~2001,~~ The department of job and family services shall adopt 37754
rules in accordance with Chapter 119. of the Revised Code as 37755
necessary for the efficient administration of sections 5103.031 to 37756
5103.0316 of the Revised Code. The rules shall provide for all of 37757
the following: 37758

(A) For the purpose of section 5103.038 of the Revised Code, 37759
the date by which a ~~public children services agency,~~ private child 37760
placing agency~~,~~ or private noncustodial agency that seeks to 37761
operate a preplacement training program or continuing training 37762
program under section 5103.034 of the Revised Code must submit to 37763
the department a proposal outlining the program; 37764

(B) Requirements governing the department's ~~reimbursement~~ 37765
compensation of ~~the Ohio child welfare training program and public~~ 37766
~~children services agencies,~~ private child placing agencies~~,~~ and 37767
private noncustodial agencies under sections 5103.0312 and 37768
5103.0313 of the Revised Code; 37769

(C) Any other matter the department considers appropriate. 37770

Sec. 5103.154. (A) Information concerning all children who 37771
are, pursuant to section 2151.353 or 5103.15 of the Revised Code, 37772
in the permanent custody of an institution or association 37773
certified by the department of job and family services under 37774
section 5103.03 of the Revised Code shall be listed with the 37775
department within ninety days after permanent custody is 37776
effective, unless the child has been placed for adoption or unless 37777
an application for placement was initiated under section 5103.16 37778
of the Revised Code. 37779

(B) All persons who wish to adopt children, and are approved 37780
by an agency so empowered under this chapter, shall be listed with 37781
the department within ninety days of approval, unless a person 37782

requests in writing that that person's name not be so listed, or 37783
has had a child placed in that person's home in preparation for 37784
adoption, or has filed a petition for adoption. 37785

(C) All persons who wish to adopt a child with special needs 37786
as defined in rules adopted under section 5153.163 of the Revised 37787
Code, and who are approved by an agency so empowered under this 37788
chapter, shall be listed separately by the department within 37789
ninety days of approval, unless a person requests in writing that 37790
that person's name not be so listed, or has had a child with 37791
special needs placed in that person's home in preparation for 37792
adoption, or has filed a petition for adoption. 37793

(D) The department shall forward information on such children 37794
and listed persons at least quarterly, to all public children 37795
services agencies and all certified agencies. 37796

(E) The appropriate listed names shall be removed when a 37797
child is placed in an adoptive home or when a person withdraws an 37798
application for adoption. 37799

(F) No later than six months after the end of each fiscal 37800
year, the department shall compile a report of its conclusions 37801
regarding the effectiveness of its actions pursuant to this 37802
section and of the restrictions on placement under division ~~(E)~~(G) 37803
of section 5153.163 of the Revised Code in increasing adoptive 37804
placements of children with special needs, together with its 37805
recommendations, and shall submit a copy of the report to the 37806
chairpersons of the principal committees of the senate and the 37807
house of representatives who consider welfare legislation. 37808

Sec. 5103.155. As used in this section, "children with 37809
special needs" has the same meaning as in rules adopted under 37810
section 5153.163 of the Revised Code. 37811

If the department of job and family services determines that 37812

money in the putative father registry fund created under section 37813
2101.16 of the Revised Code is more than is needed to perform its 37814
duties related to the putative father registry, the department may 37815
use surplus moneys in the fund to promote adoption of children 37816
with special needs. 37817

Sec. 5104.01. As used in this chapter: 37818

(A) "Administrator" means the person responsible for the 37819
daily operation of a center or type A home. The administrator and 37820
the owner may be the same person. 37821

(B) "Approved child day camp" means a child day camp approved 37822
pursuant to section 5104.22 of the Revised Code. 37823

(C) "Authorized provider" means a person authorized by a 37824
county director of job and family services to operate a certified 37825
type B family day-care home. 37826

(D) "Border state child day-care provider" means a child 37827
day-care provider that is located in a state bordering Ohio and 37828
that is licensed, certified, or otherwise approved by that state 37829
to provide child day-care. 37830

(E) "Caretaker parent" means the father or mother of a child 37831
whose presence in the home is needed as the caretaker of the 37832
child, a person who has legal custody of a child and whose 37833
presence in the home is needed as the caretaker of the child, a 37834
guardian of a child whose presence in the home is needed as the 37835
caretaker of the child, and any other person who stands in loco 37836
parentis with respect to the child and whose presence in the home 37837
is needed as the caretaker of the child. 37838

(F) "Certified type B family day-care home" and "certified 37839
type B home" mean a type B family day-care home that is certified 37840
by the director of the county department of job and family 37841
services pursuant to section 5104.11 of the Revised Code to 37842

receive public funds for providing child day-care pursuant to this 37843
chapter and any rules adopted under it. 37844

(G) "Chartered nonpublic school" means a school that meets 37845
standards for nonpublic schools prescribed by the state board of 37846
education for nonpublic schools pursuant to section 3301.07 of the 37847
Revised Code. 37848

(H) "Child" includes an infant, toddler, preschool child, or 37849
school child. 37850

(I) "Child care block grant act" means the "Child Care and 37851
Development Block Grant Act of 1990," established in section 5082 37852
of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 37853
1388-236 (1990), 42 U.S.C. 9858, as amended. 37854

(J) "Child day camp" means a program in which only school 37855
children attend or participate, that operates for no more than 37856
seven hours per day, that operates only during one or more public 37857
school district's regular vacation periods or for no more than 37858
fifteen weeks during the summer, and that operates outdoor 37859
activities for each child who attends or participates in the 37860
program for a minimum of fifty per cent of each day that children 37861
attend or participate in the program, except for any day when 37862
hazardous weather conditions prevent the program from operating 37863
outdoor activities for a minimum of fifty per cent of that day. 37864
For purposes of this division, the maximum seven hours of 37865
operation time does not include transportation time from a child's 37866
home to a child day camp and from a child day camp to a child's 37867
home. 37868

(K) "Child day-care" means administering to the needs of 37869
infants, toddlers, preschool children, and school children outside 37870
of school hours by persons other than their parents or guardians, 37871
custodians, or relatives by blood, marriage, or adoption for any 37872
part of the twenty-four-hour day in a place or residence other 37873

than a child's own home. 37874

(L) "Child day-care center" and "center" mean any place in 37875
which child day-care or publicly funded child day-care is provided 37876
for thirteen or more children at one time or any place that is not 37877
the permanent residence of the licensee or administrator in which 37878
child day-care or publicly funded child day-care is provided for 37879
seven to twelve children at one time. In counting children for the 37880
purposes of this division, any children under six years of age who 37881
are related to a licensee, administrator, or employee and who are 37882
on the premises of the center shall be counted. "Child day-care 37883
center" and "center" do not include any of the following: 37884

(1) A place located in and operated by a hospital, as defined 37885
in section 3727.01 of the Revised Code, in which the needs of 37886
children are administered to, if all the children whose needs are 37887
being administered to are monitored under the on-site supervision 37888
of a physician licensed under Chapter 4731. of the Revised Code or 37889
a registered nurse licensed under Chapter 4723. of the Revised 37890
Code, and the services are provided only for children who, in the 37891
opinion of the child's parent, guardian, or custodian, are 37892
exhibiting symptoms of a communicable disease or other illness or 37893
are injured; 37894

(2) A child day camp; 37895

(3) A place that provides child day-care, but not publicly 37896
funded child day-care, if all of the following apply: 37897

(a) An organized religious body provides the child day-care; 37898

(b) A parent, custodian, or guardian of at least one child 37899
receiving child day-care is on the premises and readily accessible 37900
at all times; 37901

(c) The child day-care is not provided for more than thirty 37902
days a year; 37903

(d) The child day-care is provided only for preschool and school children.	37904 37905
(M) "Child day-care resource and referral service organization" means a community-based nonprofit organization that provides child day-care resource and referral services but not child day-care.	37906 37907 37908 37909
(N) "Child day-care resource and referral services" means all of the following services:	37910 37911
(1) Maintenance of a uniform data base of all child day-care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;	37912 37913 37914
(2) Provision of individualized consumer education to families seeking child day-care;	37915 37916
(3) Provision of timely referrals of available child day-care providers to families seeking child day-care;	37917 37918
(4) Recruitment of child day-care providers;	37919
(5) Assistance in the development, conduct, and dissemination of training for child day-care providers and provision of technical assistance to current and potential child day-care providers, employers, and the community;	37920 37921 37922 37923
(6) Collection and analysis of data on the supply of and demand for child day-care in the community;	37924 37925
(7) Technical assistance concerning locally, state, and federally funded child day-care and early childhood education programs;	37926 37927 37928
(8) Stimulation of employer involvement in making child day-care more affordable, more available, safer, and of higher quality for their employees and for the community;	37929 37930 37931
(9) Provision of written educational materials to caretaker	37932

parents and informational resources to child day-care providers;	37933
(10) Coordination of services among child day-care resource	37934
and referral service organizations to assist in developing and	37935
maintaining a statewide system of child day-care resource and	37936
referral services if required by the department of job and family	37937
services;	37938
(11) Cooperation with the county department of job and family	37939
services in encouraging the establishment of parent cooperative	37940
child day-care centers and parent cooperative type A family	37941
day-care homes.	37942
(O) "Child-care staff member" means an employee of a child	37943
day-care center or type A family day-care home who is primarily	37944
responsible for the care and supervision of children. The	37945
administrator may be a part-time child-care staff member when not	37946
involved in other duties.	37947
(P) "Drop-in child day-care center," "drop-in center,"	37948
"drop-in type A family day-care home," and "drop-in type A home"	37949
mean a center or type A home that provides child day-care or	37950
publicly funded child day-care for children on a temporary,	37951
irregular basis.	37952
(Q) "Employee" means a person who either:	37953
(1) Receives compensation for duties performed in a child	37954
day-care center or type A family day-care home;	37955
(2) Is assigned specific working hours or duties in a child	37956
day-care center or type A family day-care home.	37957
(R) "Employer" means a person, firm, institution,	37958
organization, or agency that operates a child day-care center or	37959
type A family day-care home subject to licensure under this	37960
chapter.	37961
(S) "Federal poverty line" means the official poverty	37962

guideline as revised annually in accordance with section 673(2) of 37963
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 37964
U.S.C. 9902, as amended, for a family size equal to the size of 37965
the family of the person whose income is being determined. 37966

(T) "Head start program" means a comprehensive child 37967
development program that receives funds distributed under the 37968
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 37969
amended, or under ~~section~~ sections 3301.31 to 3301.37 of the 37970
Revised Code. 37971

(U) "Income" means gross income, as defined in section 37972
5107.10 of the Revised Code, less any amounts required by federal 37973
statutes or regulations to be disregarded. 37974

(V) "Indicator checklist" means an inspection tool, used in 37975
conjunction with an instrument-based program monitoring 37976
information system, that contains selected licensing requirements 37977
that are statistically reliable indicators or predictors of a 37978
child day-care center or type A family day-care home's compliance 37979
with licensing requirements. 37980

(W) "Infant" means a child who is less than eighteen months 37981
of age. 37982

(X) "In-home aide" means a person certified by a county 37983
director of job and family services pursuant to section 5104.12 of 37984
the Revised Code to provide publicly funded child day-care to a 37985
child in a child's own home pursuant to this chapter and any rules 37986
adopted under it. 37987

(Y) "Instrument-based program monitoring information system" 37988
means a method to assess compliance with licensing requirements 37989
for child day-care centers and type A family day-care homes in 37990
which each licensing requirement is assigned a weight indicative 37991
of the relative importance of the requirement to the health, 37992
growth, and safety of the children that is used to develop an 37993

indicator checklist. 37994

(Z) "License capacity" means the maximum number in each age 37995
category of children who may be cared for in a child day-care 37996
center or type A family day-care home at one time as determined by 37997
the director of job and family services considering building 37998
occupancy limits established by the department of commerce, number 37999
of available child-care staff members, amount of available indoor 38000
floor space and outdoor play space, and amount of available play 38001
equipment, materials, and supplies. 38002

(AA) "Licensed preschool program" or "licensed school child 38003
program" means a preschool program or school child program, as 38004
defined in section 3301.52 of the Revised Code, that is licensed 38005
by the department of education pursuant to sections 3301.52 to 38006
3301.59 of the Revised Code. 38007

(BB) "Licensee" means the owner of a child day-care center or 38008
type A family day-care home that is licensed pursuant to this 38009
chapter and who is responsible for ensuring its compliance with 38010
this chapter and rules adopted pursuant to this chapter. 38011

(CC) "Operate a child day camp" means to operate, establish, 38012
manage, conduct, or maintain a child day camp. 38013

(DD) "Owner" includes a person, as defined in section 1.59 of 38014
the Revised Code, or government entity. 38015

(EE) "Parent cooperative child day-care center," "parent 38016
cooperative center," "parent cooperative type A family day-care 38017
home," and "parent cooperative type A home" mean a corporation or 38018
association organized for providing educational services to the 38019
children of members of the corporation or association, without 38020
gain to the corporation or association as an entity, in which the 38021
services of the corporation or association are provided only to 38022
children of the members of the corporation or association, 38023
ownership and control of the corporation or association rests 38024

solely with the members of the corporation or association, and at 38025
least one parent-member of the corporation or association is on 38026
the premises of the center or type A home during its hours of 38027
operation. 38028

(FF) "Part-time child day-care center," "part-time center," 38029
"part-time type A family day-care home," and "part-time type A 38030
home" mean a center or type A home that provides child day-care or 38031
publicly funded child day-care for no more than four hours a day 38032
for any child. 38033

(GG) "Place of worship" means a building where activities of 38034
an organized religious group are conducted and includes the 38035
grounds and any other buildings on the grounds used for such 38036
activities. 38037

(HH) "Preschool child" means a child who is three years old 38038
or older but is not a school child. 38039

(II) "Protective day-care" means publicly funded child 38040
day-care for the direct care and protection of a child to whom 38041
either of the following applies: 38042

(1) A case plan prepared and maintained for the child 38043
pursuant to section 2151.412 of the Revised Code indicates a need 38044
for protective day-care and the child resides with a parent, 38045
stepparent, guardian, or another person who stands in loco 38046
parentis as defined in rules adopted under section 5104.38 of the 38047
Revised Code; 38048

(2) The child and the child's caretaker either temporarily 38049
reside in a facility providing emergency shelter for homeless 38050
families or are determined by the county department of job and 38051
family services to be homeless, and are otherwise ineligible for 38052
publicly funded child day-care. 38053

(JJ) "Publicly funded child day-care" means administering to 38054
the needs of infants, toddlers, preschool children, and school 38055

children under age thirteen during any part of the 38056
twenty-four-hour day by persons other than their caretaker parents 38057
for remuneration wholly or in part with federal or state funds, 38058
including funds available under the child care block grant act 38059
funds, Title IV-A, and Title XX, distributed by the department of 38060
job and family services. 38061

(KK) "Religious activities" means any of the following: 38062
worship or other religious services; religious instruction; Sunday 38063
school classes or other religious classes conducted during or 38064
prior to worship or other religious services; youth or adult 38065
fellowship activities; choir or other musical group practices or 38066
programs; meals; festivals; or meetings conducted by an organized 38067
religious group. 38068

(LL) "School child" means a child who is enrolled in or is 38069
eligible to be enrolled in a grade of kindergarten or above but is 38070
less than fifteen years old. 38071

(MM) "School child day-care center," "school child center," 38072
"school child type A family day-care home," and "school child type 38073
A family home" mean a center or type A home that provides child 38074
day-care for school children only and that does either or both of 38075
the following: 38076

(1) Operates only during that part of the day that 38077
immediately precedes or follows the public school day of the 38078
school district in which the center or type A home is located; 38079

(2) Operates only when the public schools in the school 38080
district in which the center or type A home is located are not 38081
open for instruction with pupils in attendance. 38082

(NN) "Special needs day-care" means publicly funded child 38083
day-care that is provided for a child who is physically or 38084
developmentally handicapped, mentally retarded, or mentally ill. 38085

(OO) "State median income" means the state median income 38086

calculated by the department of development pursuant to division 38087
(A)(1)(g) of section 5709.61 of the Revised Code. 38088

(PP) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 38089
38090

(OO) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 38091
38092

(RR) "Toddler" means a child who is at least eighteen months 38093
of age but less than three years of age. 38094

~~(QQ)~~(SS) "Type A family day-care home" and "type A home" mean 38095
a permanent residence of the administrator in which child day-care 38096
or publicly funded child day-care is provided for seven to twelve 38097
children at one time or a permanent residence of the administrator 38098
in which child day-care is provided for four to twelve children at 38099
one time if four or more children at one time are under two years 38100
of age. In counting children for the purposes of this division, 38101
any children under six years of age who are related to a licensee, 38102
administrator, or employee and who are on the premises of the type 38103
A home shall be counted. "Type A family day-care home" does not 38104
include a residence in which the needs of children are 38105
administered to, if all of the children whose needs are being 38106
administered to are siblings of the same immediate family and the 38107
residence is the home of the siblings. "Type A family day-care 38108
home" and "type A home" do not include any child day camp. 38109

~~(RR)~~(TT) "Type B family day-care home" and "type B home" mean 38110
a permanent residence of the provider in which child day-care is 38111
provided for one to six children at one time and in which no more 38112
than three children are under two years of age at one time. In 38113
counting children for the purposes of this division, any children 38114
under six years of age who are related to the provider and who are 38115
on the premises of the type B home shall be counted. "Type B 38116
family day-care home" does not include a residence in which the 38117

needs of children are administered to, if all of the children 38118
whose needs are being administered to are siblings of the same 38119
immediate family and the residence is the home of the siblings. 38120
"Type B family day-care home" and "type B home" do not include any 38121
child day camp. 38122

Sec. 5104.011. (A) The director of job and family services 38123
shall adopt rules pursuant to Chapter 119. of the Revised Code 38124
governing the operation of child day-care centers, including, but 38125
not limited to, parent cooperative centers, part-time centers, 38126
drop-in centers, and school child centers, which rules shall 38127
reflect the various forms of child day-care and the needs of 38128
children receiving child day-care or publicly funded child 38129
day-care and, ~~no later than January 1, 1992,~~ shall include 38130
specific rules for school child day-care centers that are 38131
developed in consultation with the department of education. The 38132
rules shall not require an existing school facility that is in 38133
compliance with applicable building codes to undergo an additional 38134
building code inspection or to have structural modifications. The 38135
rules shall include the following: 38136

(1) Submission of a site plan and descriptive plan of 38137
operation to demonstrate how the center proposes to meet the 38138
requirements of this chapter and rules adopted pursuant to this 38139
chapter for the initial license application; 38140

(2) Standards for ensuring that the physical surroundings of 38141
the center are safe and sanitary including, but not limited to, 38142
the physical environment, the physical plant, and the equipment of 38143
the center; 38144

(3) Standards for the supervision, care, and discipline of 38145
children receiving child day-care or publicly funded child 38146
day-care in the center; 38147

(4) Standards for a program of activities, and for play 38148

equipment, materials, and supplies, to enhance the development of 38149
each child; however, any educational curricula, philosophies, and 38150
methodologies that are developmentally appropriate and that 38151
enhance the social, emotional, intellectual, and physical 38152
development of each child shall be permissible. As used in this 38153
division, "program" does not include instruction in religious or 38154
moral doctrines, beliefs, or values that is conducted at child 38155
day-care centers owned and operated by churches and does include 38156
methods of disciplining children at child day-care centers. 38157

(5) Admissions policies and procedures, health care policies 38158
and procedures, including, but not limited to, procedures for the 38159
isolation of children with communicable diseases, first aid and 38160
emergency procedures, procedures for discipline and supervision of 38161
children, standards for the provision of nutritious meals and 38162
snacks, and procedures for screening children and employees, 38163
including, but not limited to, any necessary physical examinations 38164
and immunizations; 38165

(6) Methods for encouraging parental participation in the 38166
center and methods for ensuring that the rights of children, 38167
parents, and employees are protected and that responsibilities of 38168
parents and employees are met; 38169

(7) Procedures for ensuring the safety and adequate 38170
supervision of children traveling off the premises of the center 38171
while under the care of a center employee; 38172

(8) Procedures for record keeping, organization, and 38173
administration; 38174

(9) Procedures for issuing, renewing, denying, and revoking a 38175
license that are not otherwise provided for in Chapter 119. of the 38176
Revised Code; 38177

(10) Inspection procedures; 38178

(11) Procedures and standards for setting initial and renewal 38179

license application fees;	38180
(12) Procedures for receiving, recording, and responding to	38181
complaints about centers;	38182
(13) Procedures for enforcing section 5104.04 of the Revised	38183
Code;	38184
(14) A standard requiring the inclusion, on and after July 1,	38185
1987, of a current department of job and family services toll-free	38186
telephone number on each center provisional license or license	38187
which any person may use to report a suspected violation by the	38188
center of this chapter or rules adopted pursuant to this chapter;	38189
(15) Requirements for the training of administrators and	38190
child-care staff members in first aid, in prevention, recognition,	38191
and management of communicable diseases, and in child abuse	38192
recognition and prevention. Training requirements for child	38193
day-care centers adopted under this division shall be consistent	38194
with divisions (B)(6) and (C)(1) of this section.	38195
(16) Procedures to be used by licensees for checking the	38196
references of potential employees of centers and procedures to be	38197
used by the director for checking the references of applicants for	38198
licenses to operate centers;	38199
(17) Standards providing for the special needs of children	38200
who are handicapped or who require treatment for health conditions	38201
while the child is receiving child day-care or publicly funded	38202
child day-care in the center;	38203
(18) Any other procedures and standards necessary to carry	38204
out this chapter.	38205
(B)(1) The child day-care center shall have, for each child	38206
for whom the center is licensed, at least thirty-five square feet	38207
of usable indoor floor space wall-to-wall regularly available for	38208
the child day-care operation exclusive of any parts of the	38209

structure in which the care of children is prohibited by law or by 38210
rules adopted by the board of building standards. The minimum of 38211
thirty-five square feet of usable indoor floor space shall not 38212
include hallways, kitchens, storage areas, or any other areas that 38213
are not available for the care of children, as determined by the 38214
director, in meeting the space requirement of this division, and 38215
bathrooms shall be counted in determining square footage only if 38216
they are used exclusively by children enrolled in the center, 38217
except that the exclusion of hallways, kitchens, storage areas, 38218
bathrooms not used exclusively by children enrolled in the center, 38219
and any other areas not available for the care of children from 38220
the minimum of thirty-five square feet of usable indoor floor 38221
space shall not apply to: 38222

(a) Centers licensed prior to or on September 1, 1986, that 38223
continue under licensure after that date; 38224

(b) Centers licensed prior to or on September 1, 1986, that 38225
are issued a new license after that date solely due to a change of 38226
ownership of the center. 38227

(2) The child day-care center shall have on the site a safe 38228
outdoor play space which is enclosed by a fence or otherwise 38229
protected from traffic or other hazards. The play space shall 38230
contain not less than sixty square feet per child using such space 38231
at any one time, and shall provide an opportunity for supervised 38232
outdoor play each day in suitable weather. The director may exempt 38233
a center from the requirement of this division, if an outdoor play 38234
space is not available and if all of the following are met: 38235

(a) The center provides an indoor recreation area that has 38236
not less than sixty square feet per child using the space at any 38237
one time, that has a minimum of one thousand four hundred forty 38238
square feet of space, and that is separate from the indoor space 38239
required under division (B)(1) of this section. 38240

(b) The director has determined that there is regularly 38241
available and scheduled for use a conveniently accessible and safe 38242
park, playground, or similar outdoor play area for play or 38243
recreation. 38244

(c) The children are closely supervised during play and while 38245
traveling to and from the area. 38246

The director also shall exempt from the requirement of this 38247
division a child day-care center that was licensed prior to 38248
September 1, 1986, if the center received approval from the 38249
director prior to September 1, 1986, to use a park, playground, or 38250
similar area, not connected with the center, for play or 38251
recreation in lieu of the outdoor space requirements of this 38252
section and if the children are closely supervised both during 38253
play and while traveling to and from the area and except if the 38254
director determines upon investigation and inspection pursuant to 38255
section 5104.04 of the Revised Code and rules adopted pursuant to 38256
that section that the park, playground, or similar area, as well 38257
as access to and from the area, is unsafe for the children. 38258

(3) The child day-care center shall have at least two 38259
responsible adults available on the premises at all times when 38260
seven or more children are in the center. The center shall 38261
organize the children in the center in small groups, shall provide 38262
child-care staff to give continuity of care and supervision to the 38263
children on a day-by-day basis, and shall ensure that no child is 38264
left alone or unsupervised. Except as otherwise provided in 38265
division (E) of this section, the maximum number of children per 38266
child-care staff member and maximum group size, by age category of 38267
children, are as follows: 38268

	Maximum Number of		
	Children Per	Maximum	
Age Category	Child-Care	Group	
of Children	Staff Member	Size	
			38269
			38270
			38271
			38272

(a) Infants:			38273
(i) Less than twelve months old			38274
	5:1, or		38275
	12:2 if two		38276
	child-care		38277
	staff members		38278
	are in the room	12	38279
(ii) At least twelve months old, but less than eighteen months old			38280
			38281
			38282
	6:1	12	38283
(b) Toddlers:			38284
(i) At least eighteen months old, but less than thirty months old			38285
			38286
			38287
	7:1	14	38288
(ii) At least thirty months old, but less than three years old			38289
			38290
	8:1	16	38291
(c) Preschool children:			38292
			38293
(i) Three years old	12:1	24	38294
(ii) Four years old and five years old who are not school children			38295
			38296
			38297
	14:1	28	38298
(d) School children:			38299
(i) A child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above, but			38300
			38301
			38302
			38303
			38304
			38305

is less than 38306
eleven years old 18:1 36 38307
(ii) Eleven through fourteen 38308
years old 20:1 40 38309

Except as otherwise provided in division (E) of this section, 38310
the maximum number of children per child-care staff member and 38311
maximum group size requirements of the younger age group shall 38312
apply when age groups are combined. 38313

(4)(a) The child day-care center administrator shall show the 38314
director both of the following: 38315

(i) Evidence of at least high school graduation or 38316
certification of high school equivalency by the state board of 38317
education or the appropriate agency of another state; 38318

(ii) Evidence of having completed at least two years of 38319
training in an accredited college, university, or technical 38320
college, including courses in child development or early childhood 38321
education, or at least two years of experience in supervising and 38322
giving daily care to children attending an organized group 38323
program. 38324

(b) In addition to the requirements of division (B)(4)(a) of 38325
this section, any administrator employed or designated on or after 38326
September 1, 1986, shall show evidence of, and any administrator 38327
employed or designated prior to September 1, 1986, shall show 38328
evidence within six years after such date of, at least one of the 38329
following: 38330

(i) Two years of experience working as a child-care staff 38331
member in a center and at least four courses in child development 38332
or early childhood education from an accredited college, 38333
university, or technical college, except that a person who has two 38334
years of experience working as a child-care staff member in a 38335
particular center and who has been promoted to or designated as 38336

administrator of that center shall have one year from the time the 38337
person was promoted to or designated as administrator to complete 38338
the required four courses; 38339

(ii) Two years of training, including at least four courses 38340
in child development or early childhood education from an 38341
accredited college, university, or technical college; 38342

(iii) A child development associate credential issued by the 38343
national child development associate credentialing commission; 38344

(iv) An associate or higher degree in child development or 38345
early childhood education from an accredited college, technical 38346
college, or university, or a license designated for teaching in an 38347
associate teaching position in a preschool setting issued by the 38348
state board of education. 38349

(5) All child-care staff members of a child day-care center 38350
shall be at least eighteen years of age, and shall furnish the 38351
director evidence of at least high school graduation or 38352
certification of high school equivalency by the state board of 38353
education or the appropriate agency of another state or evidence 38354
of completion of a training program approved by the department of 38355
job and family services or state board of education, except as 38356
follows: 38357

(a) A child-care staff member may be less than eighteen years 38358
of age if the staff member is either of the following: 38359

(i) A graduate of a two-year vocational child-care training 38360
program approved by the state board of education; 38361

(ii) A student enrolled in the second year of a vocational 38362
child-care training program approved by the state board of 38363
education which leads to high school graduation, provided that the 38364
student performs the student's duties in the child day-care center 38365
under the continuous supervision of an experienced child-care 38366
staff member, receives periodic supervision from the vocational 38367

child-care training program teacher-coordinator in the student's 38368
high school, and meets all other requirements of this chapter and 38369
rules adopted pursuant to this chapter. 38370

(b) A child-care staff member shall be exempt from the 38371
educational requirements of this division if the staff member: 38372

(i) Prior to January 1, 1972, was employed or designated by a 38373
child day-care center and has been continuously employed since 38374
either by the same child day-care center employer or at the same 38375
child day-care center; or 38376

(ii) Is a student enrolled in the second year of a vocational 38377
child-care training program approved by the state board of 38378
education which leads to high school graduation, provided that the 38379
student performs the student's duties in the child day-care center 38380
under the continuous supervision of an experienced child-care 38381
staff member, receives periodic supervision from the vocational 38382
child-care training program teacher-coordinator in the student's 38383
high school, and meets all other requirements of this chapter and 38384
rules adopted pursuant to this chapter. 38385

(6) Every child day-care staff member of a child day-care 38386
center annually shall complete fifteen hours of inservice training 38387
in child development or early childhood education, child abuse 38388
recognition and prevention, first aid, and in prevention, 38389
recognition, and management of communicable diseases, until a 38390
total of forty-five hours of training has been completed, unless 38391
the staff member furnishes one of the following to the director: 38392

(a) Evidence of an associate or higher degree in child 38393
development or early childhood education from an accredited 38394
college, university, or technical college; 38395

(b) A license designated for teaching in an associate 38396
teaching position in a preschool setting issued by the state board 38397
of education; 38398

(c) Evidence of a child development associate credential; 38399

(d) Evidence of a preprimary credential from the American 38400
Montessori society or the association Montessori international. 38401
For the purposes of division (B)(6) of this section, "hour" means 38402
sixty minutes. 38403

(7) The administrator of each child day-care center shall 38404
prepare at least once annually and for each group of children at 38405
the center a roster of names and telephone numbers of parents, 38406
custodians, or guardians of each group of children attending the 38407
center and upon request shall furnish the roster for each group to 38408
the parents, custodians, or guardians of the children in that 38409
group. The administrator may prepare a roster of names and 38410
telephone numbers of all parents, custodians, or guardians of 38411
children attending the center and upon request shall furnish the 38412
roster to the parents, custodians, or guardians of the children 38413
who attend the center. The administrator shall not include in any 38414
roster the name or telephone number of any parent, custodian, or 38415
guardian who requests the administrator not to include the 38416
parent's, custodian's, or guardian's name or number and shall not 38417
furnish any roster to any person other than a parent, custodian, 38418
or guardian of a child who attends the center. 38419

(C)(1) Each child day-care center shall have on the center 38420
premises and readily available at all times at least one 38421
child-care staff member who has completed a course in first aid 38422
and in prevention, recognition, and management of communicable 38423
diseases which is approved by the state department of health and a 38424
staff member who has completed a course in child abuse recognition 38425
and prevention training which is approved by the department of job 38426
and family services. 38427

(2) The administrator of each child day-care center shall 38428
maintain enrollment, health, and attendance records for all 38429

children attending the center and health and employment records 38430
for all center employees. The records shall be confidential, 38431
except as otherwise provided in division (B)(7) of this section 38432
and except that they shall be disclosed by the administrator to 38433
the director upon request for the purpose of administering and 38434
enforcing this chapter and rules adopted pursuant to this chapter. 38435
Neither the center nor the licensee, administrator, or employees 38436
of the center shall be civilly or criminally liable in damages or 38437
otherwise for records disclosed to the director by the 38438
administrator pursuant to this division. It shall be a defense to 38439
any civil or criminal charge based upon records disclosed by the 38440
administrator to the director that the records were disclosed 38441
pursuant to this division. 38442

(3)(a) Any parent who is the residential parent and legal 38443
custodian of a child enrolled in a child day-care center and any 38444
custodian or guardian of such a child shall be permitted unlimited 38445
access to the center during its hours of operation for the 38446
purposes of contacting their children, evaluating the care 38447
provided by the center, evaluating the premises of the center, or 38448
for other purposes approved by the director. A parent of a child 38449
enrolled in a child day-care center who is not the child's 38450
residential parent shall be permitted unlimited access to the 38451
center during its hours of operation for those purposes under the 38452
same terms and conditions under which the residential parent of 38453
that child is permitted access to the center for those purposes. 38454
However, the access of the parent who is not the residential 38455
parent is subject to any agreement between the parents and, to the 38456
extent described in division (C)(3)(b) of this section, is subject 38457
to any terms and conditions limiting the right of access of the 38458
parent who is not the residential parent, as described in division 38459
(I) of section 3109.051 of the Revised Code, that are contained in 38460
a parenting time order or decree issued under that section, 38461
section 3109.12 of the Revised Code, or any other provision of the 38462

Revised Code. 38463

(b) If a parent who is the residential parent of a child has 38464
presented the administrator or the administrator's designee with a 38465
copy of a parenting time order that limits the terms and 38466
conditions under which the parent who is not the residential 38467
parent is to have access to the center, as described in division 38468
(I) of section 3109.051 of the Revised Code, the parent who is not 38469
the residential parent shall be provided access to the center only 38470
to the extent authorized in the order. If the residential parent 38471
has presented such an order, the parent who is not the residential 38472
parent shall be permitted access to the center only in accordance 38473
with the most recent order that has been presented to the 38474
administrator or the administrator's designee by the residential 38475
parent or the parent who is not the residential parent. 38476

(c) Upon entering the premises pursuant to division (C)(3)(a) 38477
or (b) of this section, the parent who is the residential parent 38478
and legal custodian, the parent who is not the residential parent, 38479
or the custodian or guardian shall notify the administrator or the 38480
administrator's designee of the parent's, custodian's, or 38481
guardian's presence. 38482

(D) The director of job and family services, in addition to 38483
the rules adopted under division (A) of this section, shall adopt 38484
rules establishing minimum requirements for child day-care 38485
centers. The rules shall include, but not be limited to, the 38486
requirements set forth in divisions (B) and (C) of this section. 38487
Except as provided in section 5104.07 of the Revised Code, the 38488
rules shall not change the square footage requirements of division 38489
(B)(1) or (2) of this section; the maximum number of children per 38490
child-care staff member and maximum group size requirements of 38491
division (B)(3) of this section; the educational and experience 38492
requirements of division (B)(4) of this section; the age, 38493
educational, and experience requirements of division (B)(5) of 38494

this section; the number of inservice training hours required 38495
under division (B)(6) of this section; or the requirement for at 38496
least annual preparation of a roster for each group of children of 38497
names and telephone numbers of parents, custodians, or guardians 38498
of each group of children attending the center that must be 38499
furnished upon request to any parent, custodian, or guardian of 38500
any child in that group required under division (B)(7) of this 38501
section; however, the rules shall provide procedures for 38502
determining compliance with those requirements. 38503

(E)(1) When age groups are combined, the maximum number of 38504
children per child-care staff member shall be determined by the 38505
age of the youngest child in the group, except that when no more 38506
than one child thirty months of age or older receives services in 38507
a group in which all the other children are in the next older age 38508
group, the maximum number of children per child-care staff member 38509
and maximum group size requirements of the older age group 38510
established under division (B)(3) of this section shall apply. 38511

(2) The maximum number of toddlers or preschool children per 38512
child-care staff member in a room where children are napping shall 38513
be twice the maximum number of children per child-care staff 38514
member established under division (B)(3) of this section if all 38515
the following criteria are met: 38516

(a) At least one child-care staff member is present in the 38517
room. 38518

(b) Sufficient child-care staff members are on the child 38519
day-care center premises to meet the maximum number of children 38520
per child-care staff member requirements established under 38521
division (B)(3) of this section. 38522

(c) Naptime preparations are complete and all napping 38523
children are resting or sleeping on cots. 38524

(d) The maximum number established under division (E)(2) of 38525

this section is in effect for no more than one and one-half hours 38526
during a twenty-four-hour day. 38527

(F) The director of job and family services shall adopt rules 38528
pursuant to Chapter 119. of the Revised Code governing the 38529
operation of type A family day-care homes, including, but not 38530
limited to, parent cooperative type A homes, part-time type A 38531
homes, drop-in type A homes, and school child type A homes, which 38532
shall reflect the various forms of child day-care and the needs of 38533
children receiving child day-care. The rules shall include the 38534
following: 38535

(1) Submission of a site plan and descriptive plan of 38536
operation to demonstrate how the type A home proposes to meet the 38537
requirements of this chapter and rules adopted pursuant to this 38538
chapter for the initial license application; 38539

(2) Standards for ensuring that the physical surroundings of 38540
the type A home are safe and sanitary, including, but not limited 38541
to, the physical environment, the physical plant, and the 38542
equipment of the type A home; 38543

(3) Standards for the supervision, care, and discipline of 38544
children receiving child day-care or publicly funded child 38545
day-care in the type A home; 38546

(4) Standards for a program of activities, and for play 38547
equipment, materials, and supplies, to enhance the development of 38548
each child; however, any educational curricula, philosophies, and 38549
methodologies that are developmentally appropriate and that 38550
enhance the social, emotional, intellectual, and physical 38551
development of each child shall be permissible; 38552

(5) Admissions policies and procedures, health care policies 38553
and procedures, including, but not limited to, procedures for the 38554
isolation of children with communicable diseases, first aid and 38555
emergency procedures, procedures for discipline and supervision of 38556

children, standards for the provision of nutritious meals and	38557
snacks, and procedures for screening children and employees,	38558
including, but not limited to, any necessary physical examinations	38559
and immunizations;	38560
(6) Methods for encouraging parental participation in the	38561
type A home and methods for ensuring that the rights of children,	38562
parents, and employees are protected and that the responsibilities	38563
of parents and employees are met;	38564
(7) Procedures for ensuring the safety and adequate	38565
supervision of children traveling off the premises of the type A	38566
home while under the care of a type A home employee;	38567
(8) Procedures for record keeping, organization, and	38568
administration;	38569
(9) Procedures for issuing, renewing, denying, and revoking a	38570
license that are not otherwise provided for in Chapter 119. of the	38571
Revised Code;	38572
(10) Inspection procedures;	38573
(11) Procedures and standards for setting initial and renewal	38574
license application fees;	38575
(12) Procedures for receiving, recording, and responding to	38576
complaints about type A homes;	38577
(13) Procedures for enforcing section 5104.04 of the Revised	38578
Code;	38579
(14) A standard requiring the inclusion, on or after July 1,	38580
1987, of a current department of job and family services toll-free	38581
telephone number on each type A home provisional license or	38582
license which any person may use to report a suspected violation	38583
by the type A home of this chapter or rules adopted pursuant this	38584
chapter;	38585
(15) Requirements for the training of administrators and	38586

child-care staff members in first aid, in prevention, recognition,	38587
and management of communicable diseases, and in child abuse	38588
recognition and prevention;	38589
(16) Procedures to be used by licensees for checking the	38590
references of potential employees of type A homes and procedures	38591
to be used by the director for checking the references of	38592
applicants for licenses to operate type A homes;	38593
(17) Standards providing for the special needs of children	38594
who are handicapped or who require treatment for health conditions	38595
while the child is receiving child day-care or publicly funded	38596
child day-care in the type A home;	38597
(18) Standards for the maximum number of children per	38598
child-care staff member;	38599
(19) Requirements for the amount of usable indoor floor space	38600
for each child;	38601
(20) Requirements for safe outdoor play space;	38602
(21) Qualifications and training requirements for	38603
administrators and for child-care staff members;	38604
(22) Procedures for granting a parent who is the residential	38605
parent and legal custodian, or a custodian or guardian access to	38606
the type A home during its hours of operation;	38607
(23) Standards for the preparation and distribution of a	38608
roster of parents, custodians, and guardians;	38609
(24) Any other procedures and standards necessary to carry	38610
out this chapter.	38611
(G) The director of job and family services shall adopt rules	38612
pursuant to Chapter 119. of the Revised Code governing the	38613
certification of type B family day-care homes.	38614
(1) The rules shall include procedures, standards, and other	38615
necessary provisions for granting limited certification to type B	38616

family day-care homes that are operated by the following adult 38617
providers: 38618

(a) Persons who provide child day-care for eligible children 38619
who are great-grandchildren, grandchildren, nieces, nephews, or 38620
siblings of the provider or for eligible children whose caretaker 38621
parent is a grandchild, child, niece, nephew, or sibling of the 38622
provider; 38623

(b) Persons who provide child day-care for eligible children 38624
all of whom are the children of the same caretaker parent. 38625

The rules shall require, and shall include procedures for the 38626
director to ensure, that type B family day-care homes that receive 38627
a limited certification provide child day-care to children in a 38628
safe and sanitary manner. With regard to providers who apply for 38629
limited certification, a provider shall be granted a provisional 38630
limited certification on signing a declaration under oath 38631
attesting that the provider meets the standards for limited 38632
certification. Such provisional limited certifications shall 38633
remain in effect for no more than sixty calendar days and shall 38634
entitle the provider to offer publicly funded child day-care 38635
during the provisional period. Except as otherwise provided in 38636
division (G)(1) of this section, prior to the expiration of the 38637
provisional limited certificate, a county department of job and 38638
family services shall inspect the home and shall grant limited 38639
certification to the provider if the provider meets the 38640
requirements of this division. Limited certificates remain valid 38641
for two years unless earlier revoked. Except as otherwise provided 38642
in division (G)(1) of this section, providers operating under 38643
limited certification shall be inspected annually. 38644

If a provider is a person described in division (G)(1)(a) of 38645
this section or a person described in division (G)(1)(b) of this 38646
section who is a friend of the caretaker parent, the provider and 38647
the caretaker parent may verify in writing to the county 38648

department of job and family services that minimum health and 38649
safety requirements are being met in the home. If such 38650
verification is provided, the county shall waive any inspection 38651
and any criminal records check required by this chapter and grant 38652
limited certification to the provider. 38653

(2) The rules shall provide for safeguarding the health, 38654
safety, and welfare of children receiving child day-care or 38655
publicly funded child day-care in a certified type B home and 38656
shall include the following: 38657

(a) Standards for ensuring that the type B home and the 38658
physical surroundings of the type B home are safe and sanitary, 38659
including, but not limited to, physical environment, physical 38660
plant, and equipment; 38661

(b) Standards for the supervision, care, and discipline of 38662
children receiving child day-care or publicly funded child 38663
day-care in the home; 38664

(c) Standards for a program of activities, and for play 38665
equipment, materials, and supplies to enhance the development of 38666
each child; however, any educational curricula, philosophies, and 38667
methodologies that are developmentally appropriate and that 38668
enhance the social, emotional, intellectual, and physical 38669
development of each child shall be permissible; 38670

(d) Admission policies and procedures, health care, first aid 38671
and emergency procedures, procedures for the care of sick 38672
children, procedures for discipline and supervision of children, 38673
nutritional standards, and procedures for screening children and 38674
authorized providers, including, but not limited to, any necessary 38675
physical examinations and immunizations; 38676

(e) Methods of encouraging parental participation and 38677
ensuring that the rights of children, parents, and authorized 38678
providers are protected and the responsibilities of parents and 38679

authorized providers are met;	38680
(f) Standards for the safe transport of children when under the care of authorized providers;	38681 38682
(g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	38683 38684
(h) Procedures for the inspection of type B family day-care homes that require, at a minimum, that each type B family day-care home be inspected prior to certification to ensure that the home is safe and sanitary;	38685 38686 38687 38688
(i) Procedures for record keeping and evaluation;	38689
(j) Procedures for receiving, recording, and responding to complaints;	38690 38691
(k) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the type B home;	38692 38693 38694 38695
(l) Requirements for the amount of usable indoor floor space for each child;	38696 38697
(m) Requirements for safe outdoor play space;	38698
(n) Qualification and training requirements for authorized providers;	38699 38700
(o) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;	38701 38702 38703
(p) Any other procedures and standards necessary to carry out this chapter.	38704 38705
(H) The director shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall include procedures, standards, and other necessary	38706 38707 38708

provisions for granting limited certification to in-home aides who 38709
provide child day-care for eligible children who are 38710
great-grandchildren, grandchildren, nieces, nephews, or siblings 38711
of the in-home aide or for eligible children whose caretaker 38712
parent is a grandchild, child, niece, nephew, or sibling of the 38713
in-home aide. The rules shall require, and shall include 38714
procedures for the director to ensure, that in-home aides that 38715
receive a limited certification provide child day-care to children 38716
in a safe and sanitary manner. The rules shall provide for 38717
safeguarding the health, safety, and welfare of children receiving 38718
publicly funded child day-care in their own home and shall include 38719
the following: 38720

(1) Standards for ensuring that the child's home and the 38721
physical surroundings of the child's home are safe and sanitary, 38722
including, but not limited to, physical environment, physical 38723
plant, and equipment; 38724

(2) Standards for the supervision, care, and discipline of 38725
children receiving publicly funded child day-care in their own 38726
home; 38727

(3) Standards for a program of activities, and for play 38728
equipment, materials, and supplies to enhance the development of 38729
each child; however, any educational curricula, philosophies, and 38730
methodologies that are developmentally appropriate and that 38731
enhance the social, emotional, intellectual, and physical 38732
development of each child shall be permissible; 38733

(4) Health care, first aid, and emergency procedures, 38734
procedures for the care of sick children, procedures for 38735
discipline and supervision of children, nutritional standards, and 38736
procedures for screening children and in-home aides, including, 38737
but not limited to, any necessary physical examinations and 38738
immunizations; 38739

(5) Methods of encouraging parental participation and ensuring that the rights of children, parents, and in-home aides are protected and the responsibilities of parents and in-home aides are met;	38740 38741 38742 38743
(6) Standards for the safe transport of children when under the care of in-home aides;	38744 38745
(7) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	38746 38747
(8) Procedures for inspection of homes of children receiving publicly funded child day-care in their own homes;	38748 38749
(9) Procedures for record keeping and evaluation;	38750
(10) Procedures for receiving, recording, and responding to complaints;	38751 38752
(11) Qualifications and training requirements for in-home aides;	38753 38754
(12) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving publicly funded child day-care in the child's own home;	38755 38756 38757 38758
(13) Any other procedures and standards necessary to carry out this chapter.	38759 38760
(I)(1) The director of job and family services shall send <u>copies do all of the following:</u>	38761 38762
<u>(a) Send to each licensee notice of proposed rules to each licensee and each county director of job and family services and shall give governing the licensure of child day-care centers and type A homes;</u>	38763 38764 38765 38766
<u>(b) Give</u> public notice of hearings regarding the rules to each licensee and each county director of job and family services	38767 38768

at least thirty days prior to the date of the public hearing, in 38769
accordance with section 119.03 of the Revised Code. ~~Prior;~~ 38770

(c) Prior to the effective date of a rule, ~~the director of~~ 38771
~~job and family services shall provide copies,~~ in either paper or 38772
electronic form, a copy of the adopted rule to each licensee ~~and~~ 38773
~~each county director of job and family services.~~ 38774

(2) The director shall do all of the following: 38775

(a) Send to each county director of job and family services a 38776
notice of proposed rules governing the certification of type B 38777
family homes and in-home aides that includes an internet web site 38778
address where the proposed rules can be viewed; 38779

(b) Give public notice of hearings regarding the proposed 38780
rules not less than thirty days in advance; 38781

(c) Provide to each county director of job and family 38782
services an electronic copy of each adopted rule prior to the 38783
rule's effective date. 38784

(3) The county director of job and family services shall send 38785
copies of proposed rules to each authorized provider and in-home 38786
aide and shall give public notice of hearings regarding the rules 38787
to each authorized provider and in-home aide at least thirty days 38788
prior to the date of the public hearing, in accordance with 38789
section 119.03 of the Revised Code. Prior to the effective date of 38790
a rule, the county director of job and family services shall 38791
provide copies of the adopted rule to each authorized provider and 38792
in-home aide. 38793

(4) Additional copies of proposed and adopted rules shall be 38794
made available by the director of job and family services to the 38795
public on request at no charge. 38796

(J) The director of job and family services shall review all 38797
rules adopted pursuant to this chapter at least once every seven 38798

years. 38799

(K) Notwithstanding any provision of the Revised Code, the 38800
director of job and family services shall not regulate in any way 38801
under this chapter or rules adopted pursuant to this chapter, 38802
instruction in religious or moral doctrines, beliefs, or values. 38803

Sec. 5104.02. (A) The director of job and family services is 38804
responsible for the licensing of child day-care centers and type A 38805
family day-care homes, and for the enforcement of this chapter and 38806
of rules promulgated pursuant to this chapter. No person, firm, 38807
organization, institution, or agency shall operate, establish, 38808
manage, conduct, or maintain a child day-care center or type A 38809
family day-care home without a license issued under section 38810
5104.03 of the Revised Code. The current license shall be posted 38811
in a conspicuous place in the center or type A home that is 38812
accessible to parents, custodians, or guardians and employees of 38813
the center or type A home at all times when the center or type A 38814
home is in operation. 38815

(B) A person, firm, institution, organization, or agency 38816
operating any of the following programs is exempt from the 38817
requirements of this chapter: 38818

(1) A program of child day-care that operates for two or less 38819
consecutive weeks; 38820

(2) Child day-care in places of worship during religious 38821
activities during which children are cared for while at least one 38822
parent, guardian, or custodian of each child is participating in 38823
such activities and is readily available; 38824

(3) Religious activities which do not provide child day-care; 38825

(4) Supervised training, instruction, or activities of 38826
children in specific areas, including, but not limited to: art; 38827
drama; dance; music; gymnastics, swimming, or another athletic 38828

skill or sport; computers; or an educational subject conducted on 38829
an organized or periodic basis no more than one day a week and for 38830
no more than six hours duration; 38831

(5) Programs in which the director determines that at least 38832
one parent, custodian, or guardian of each child is on the 38833
premises of the facility offering child day-care and is readily 38834
accessible at all times, except that child day-care provided on 38835
the premises at which a parent, custodian, or guardian is employed 38836
more than two and one-half hours a day shall be licensed in 38837
accordance with division (A) of this section; 38838

(6)(a) Programs that provide child day-care funded and 38839
regulated or operated and regulated by state departments other 38840
than the department of job and family services or the state board 38841
of education when the director of job and family services has 38842
determined that the rules governing the program are equivalent to 38843
or exceed the rules promulgated pursuant to this chapter. 38844

Notwithstanding any exemption from regulation under this 38845
chapter, each state department shall submit to the director of job 38846
and family services a copy of the rules that govern programs that 38847
provide child day-care and are regulated or operated and regulated 38848
by the department. Annually, each state department shall submit to 38849
the director a report for each such program it regulates or 38850
operates and regulates that includes the following information: 38851

(i) The site location of the program; 38852

(ii) The maximum number of infants, toddlers, preschool 38853
children, or school children served by the program at one time; 38854

(iii) The number of adults providing child day-care for the 38855
number of infants, toddlers, preschool children, or school 38856
children; 38857

(iv) Any changes in the rules made subsequent to the time 38858
when the rules were initially submitted to the director. 38859

The director shall maintain a record of the child day-care information submitted by other state departments and shall provide this information upon request to the general assembly or the public.

(b) Child day-care programs conducted by boards of education or by chartered nonpublic schools that are conducted in school buildings and that provide child day-care to school children only shall be exempt from meeting or exceeding rules promulgated pursuant to this chapter.

(7) Any preschool program or school child program, except a head start program, that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(8) Any program providing child day-care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only:

(a) The nonpublic school has given the notice to the state board and the director of job and family services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;

(b) The nonpublic school continues to be chartered by the state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the state board under sections 3301.52 to 3301.57 of the Revised Code.

(9) A youth development program operated outside of school hours by a community-based center to which all of the following

apply:	38890
(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.	38891 38892 38893
(b) The program provides informal child care and at least two of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.	38894 38895 38896
(c) The state board of education has approved the program's participation in the child and adult care food program as an outside-school-hours care center pursuant to standards established under section 3313.813 of the Revised Code.	38897 38898 38899 38900
(d) The community-based center operating the program is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3).	38901 38902 38903
Sec. 5104.30. (A) The department of job and family services is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child day-care in this state. Publicly funded child day-care shall be provided to the following:	38904 38905 38906 38907 38908
(1) Recipients of transitional child day-care as provided under section 5104.34 of the Revised Code;	38909 38910
(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;	38911 38912
(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code;	38913 38914 38915 38916 38917
(4) A family receiving publicly funded child day-care on October 1, 1997, until the family's income reaches one hundred	38918 38919

fifty per cent of the federal poverty line; 38920

(5) Subject to available funds, other individuals determined 38921
eligible in accordance with rules adopted under section 5104.38 of 38922
the Revised Code. 38923

The department shall apply to the United States department of 38924
health and human services for authority to operate a coordinated 38925
program for publicly funded child day-care, if the director of job 38926
and family services determines that the application is necessary. 38927
For purposes of this section, the department of job and family 38928
services may enter into agreements with other state agencies that 38929
are involved in regulation or funding of child day-care. The 38930
department shall consider the special needs of migrant workers 38931
when it administers and coordinates publicly funded child day-care 38932
and shall develop appropriate procedures for accommodating the 38933
needs of migrant workers for publicly funded child day-care. 38934

(B) The department of job and family services shall 38935
distribute state and federal funds for publicly funded child 38936
day-care, including appropriations of state funds for publicly 38937
funded child day-care and appropriations of federal funds ~~for~~ 38938
~~publicly funded child day care~~ available under ~~Title XX of the~~ 38939
~~"Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as~~ 38940
~~amended, and~~ the child care block grant act, Title IV-A, and Title 38941
XX. The department may use any state funds appropriated for 38942
publicly funded child day-care as the state share required to 38943
match any federal funds appropriated for publicly funded child 38944
day-care. 38945

(C) The department may use federal funds available under the 38946
child care block grant act to hire staff to prepare any rules 38947
required under this chapter and to administer and coordinate 38948
federal and state funding for publicly funded child day-care. 38949

Not more than five per cent of the aggregate amount of those 38950

federal funds received for a fiscal year may be expended for 38951
administrative costs. The department shall allocate and use at 38952
least four per cent of the federal funds for the following: 38953

(1) Activities designed to provide comprehensive consumer 38954
education to parents and the public; 38955

(2) Activities that increase parental choice; 38956

(3) Activities, including child day-care resource and 38957
referral services, designed to improve the quality, and increase 38958
the supply, of child day-care. 38959

(D) The department shall ensure that any federal funds 38960
received by the state under the child care block grant act will be 38961
used only to supplement, and will not be used to supplant, 38962
federal, state, and local funds available on the effective date of 38963
that act for publicly funded child day-care and related programs. 38964
A county department of job and family services may purchase child 38965
day-care from funds obtained through any other means. 38966

(E) The department shall encourage the development of 38967
suitable child day-care throughout the state, especially in areas 38968
with high concentrations of recipients of public assistance and 38969
families with low incomes. The department shall encourage the 38970
development of suitable child day-care designed to accommodate the 38971
special needs of migrant workers. On request, the department, 38972
through its employees or contracts with state or community child 38973
day-care resource and referral service organizations, shall 38974
provide consultation to groups and individuals interested in 38975
developing child day-care. The department of job and family 38976
services may enter into interagency agreements with the department 38977
of education, the board of regents, the department of development, 38978
and other state agencies and entities whenever the cooperative 38979
efforts of the other state agencies and entities are necessary for 38980
the department of job and family services to fulfill its duties 38981

and responsibilities under this chapter. 38982

The department may develop and maintain a registry of persons 38983
providing child day-care. The director may adopt rules pursuant to 38984
Chapter 119. of the Revised Code establishing procedures and 38985
requirements for the registry's administration. 38986

(F) The director shall adopt rules in accordance with Chapter 38987
119. of the Revised Code establishing a procedure for determining 38988
rates of reimbursement and a procedure for paying providers of 38989
publicly funded child day-care. In establishing rates of 38990
reimbursement pursuant to this division, the director shall use 38991
the information obtained under division (B)(3) of section 5104.04 38992
of the Revised Code and may establish different rates of 38993
reimbursement based on the geographic location of the provider, 38994
type of care provided, age of the child served, special needs of 38995
the child, whether expanded hours of service are provided, whether 38996
weekend service is provided, whether the provider has exceeded the 38997
minimum requirements of state statutes and rules governing child 38998
day-care, and any other factors the director considers 38999
appropriate. The director shall establish an enhanced rate of 39000
reimbursement for providers who provide child day-care for 39001
caretaker parents who work nontraditional hours. For a type B 39002
family day-care home that has received limited certification 39003
pursuant to rules adopted under division (G)(1) of section 39004
5104.011 of the Revised Code, the department shall adopt rules 39005
establishing a reimbursement rate that is the greater of the rate 39006
that was in effect for the home on October 1, 1997, or 39007
seventy-five per cent of the reimbursement rate that applies to a 39008
type B family day-care home certified by the same county 39009
department of job and family services pursuant to section 5104.11 39010
of the Revised Code. 39011

Sec. 5104.32. (A) Except as provided in division (C) of this 39012

section, all purchases of publicly funded child day-care shall be 39013
made under a contract entered into by a licensed child day-care 39014
center, licensed type A family day-care home, certified type B 39015
family day-care home, certified in-home aide, approved child day 39016
camp, licensed preschool program, licensed school child program, 39017
or border state child day-care provider and the county department 39018
of job and family services. A county department of job and family 39019
services may enter into a contract with a provider for publicly 39020
funded child day-care for a specified period of time or upon a 39021
continuous basis for an unspecified period of time. All contracts 39022
for publicly funded child day-care shall be contingent upon the 39023
availability of state and federal funds. The department of job and 39024
family services shall prescribe a standard form to be used for all 39025
contracts for the purchase of publicly funded child day-care, 39026
regardless of the source of public funds used to purchase the 39027
child day-care. To the extent permitted by federal law and 39028
notwithstanding any other provision of the Revised Code that 39029
regulates state or county contracts or contracts involving the 39030
expenditure of state, county, or federal funds, all contracts for 39031
publicly funded child day-care shall be entered into in accordance 39032
with the provisions of this chapter and are exempt from any other 39033
provision of the Revised Code that regulates state or county 39034
contracts or contracts involving the expenditure of state, county, 39035
or federal funds. 39036

(B) Each contract for publicly funded child day-care shall 39037
specify at least the following: 39038

(1) Except as provided in division (B)(2) of this section, 39039
that the provider of publicly funded child day-care agrees to be 39040
paid for rendering services at the lower of the rate customarily 39041
charged by the provider for children enrolled for child day-care 39042
or the rate of reimbursement established pursuant to section 39043
5104.30 of the Revised Code; 39044

(2) If the provider provides publicly funded child day-care to caretaker parents who work nontraditional hours, that the provider is to be paid for rendering services to those caretaker parents at the rate of reimbursement established pursuant to section 5104.30 of the Revised Code regardless of whether that rate is higher than the rate the provider customarily charges for children enrolled for child day-care;

(3) That, if a provider provides child day-care to an individual potentially eligible for publicly funded child day-care who is subsequently determined to be eligible, the county department agrees to pay for all child day-care provided between the date the county department receives the individual's completed application and the date the individual's eligibility is determined;

(4) Whether the county department of job and family services, the provider, or a child day-care resource and referral service organization will make eligibility determinations, whether the provider or a child day-care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child day-care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(5) That the provider, other than a border state child day-care provider or except as provided in division (B) of section 3301.37 of the Revised Code, shall continue to be licensed, approved, or certified pursuant to this chapter ~~or sections 3301.52 to 3301.59 of the Revised Code~~ and shall comply with all standards and other requirements in this chapter ~~and those sections~~ and in rules adopted pursuant to this chapter ~~or those~~

~~sections~~ for maintaining the provider's license, approval, or certification; 39077
39078

(6) That, in the case of a border state child day-care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval; 39079
39080
39081
39082
39083
39084

(7) Whether the provider will be paid by the county department of job and family services or the state department of job and family services; 39085
39086
39087

(8) That the contract is subject to the availability of state and federal funds. 39088
39089

(C) Unless specifically prohibited by federal law, the county department of job and family services shall give individuals eligible for publicly funded child day-care the option of obtaining certificates for payment that the individual may use to purchase services from any provider qualified to provide publicly funded child day-care under section 5104.31 of the Revised Code. Providers of publicly funded child day-care may present these certificates for payment for reimbursement in accordance with rules that the director of job and family services shall adopt. Only providers may receive reimbursement for certificates for payment. The value of the certificate for payment shall be based on the lower of the rate customarily charged by the provider or the rate of reimbursement established pursuant to section 5104.30 of the Revised Code, unless the provider provides publicly funded child day-care to caretaker parents who work nontraditional hours, in which case the value of the certificate for payment for the services to those caretaker parents shall be based on the rate of reimbursement established pursuant to that section regardless of whether that rate is higher than the rate customarily charged by 39090
39091
39092
39093
39094
39095
39096
39097
39098
39099
39100
39101
39102
39103
39104
39105
39106
39107
39108

the provider. The county department may provide the certificates 39109
for payment to the individuals or may contract with child day-care 39110
providers or child day-care resource and referral service 39111
organizations that make determinations of eligibility for publicly 39112
funded child day-care pursuant to contracts entered into under 39113
section 5104.34 of the Revised Code for the providers or resource 39114
and referral service organizations to provide the certificates for 39115
payment to individuals whom they determine are eligible for 39116
publicly funded child day-care. 39117

For each six-month period a provider of publicly funded child 39118
day-care provides publicly funded child day-care to the child of 39119
an individual given certificates of payment, the individual shall 39120
provide the provider certificates for days the provider would have 39121
provided publicly funded child day-care to the child had the child 39122
been present. County departments shall specify the maximum number 39123
of days providers will be provided certificates of payment for 39124
days the provider would have provided publicly funded child 39125
day-care had the child been present. The maximum number of days 39126
shall not exceed ten days in a six-month period during which 39127
publicly funded child day-care is provided to the child regardless 39128
of the number of providers that provide publicly funded child 39129
day-care to the child during that period. 39130

Sec. 5104.42. The director of job and family services shall 39131
adopt rules pursuant to section 111.15 of the Revised Code 39132
establishing a payment procedure for publicly funded child 39133
day-care. The rules may provide that the department of job and 39134
family services will either reimburse county departments of job 39135
and ~~family~~ family services for payments made to providers of 39136
publicly funded child day-care or make direct payments to 39137
providers pursuant to ~~an~~ a fiscal agreement entered into with a 39138
county board of commissioners pursuant to section 5101.21 of the 39139
Revised Code. 39140

Alternately, the director, by rule adopted in accordance with 39141
section 111.15 of the Revised Code, may establish a methodology 39142
for allocating among the county departments the state and federal 39143
funds appropriated for all publicly funded child day-care 39144
services. If the department chooses to allocate funds for publicly 39145
funded child day-care, it may provide the funds to each county 39146
department, up to the limit of the county's allocation, by 39147
advancing the funds or reimbursing county day-care expenditures. 39148
The rules adopted under this section may prescribe procedures for 39149
making the advances or reimbursements. The rules may establish a 39150
method under which the department may determine which county 39151
expenditures for day-care services are allowable for use of and 39152
federal funds. 39153

The rules may establish procedures that a county department 39154
shall follow when the county department determines that its 39155
anticipated future expenditures for publicly funded child day-care 39156
services will exceed the amount of state and federal funds 39157
allocated by the state department. The procedures may include 39158
suspending or limiting enrollment of new participants. 39159

Sec. 5107.02. As used in this chapter: 39160

(A) "Adult" means an individual who is not a minor child. 39161

(B) "Assistance group" means a group of individuals treated 39162
as a unit for purposes of determining eligibility for and the 39163
amount of assistance provided under Ohio works first. 39164

(C) "Custodian" means an individual who has legal custody, as 39165
defined in section 2151.011 of the Revised Code, of a minor child 39166
or comparable status over a minor child created by a court of 39167
competent jurisdiction in another state. 39168

(D) "Guardian" means an individual that is granted authority 39169
by a probate court pursuant to Chapter 2111. of the Revised Code, 39170

or a court of competent jurisdiction in another state, to exercise 39171
parental rights over a minor child to the extent provided in the 39172
court's order and subject to residual parental rights of the minor 39173
child's parents. 39174

(E) "Minor child" means either of the following: 39175

(1) An individual who has not attained age eighteen; 39176

(2) An individual who has not attained age nineteen and is a 39177
full-time student in a secondary school or in the equivalent level 39178
of vocational or technical training. 39179

(F) "Minor head of household" means a minor child who is 39180
either of the following: 39181

(1) ~~A~~ Is married, at least six months pregnant, and a member 39182
of an assistance group that does not include an adult; 39183

(2) ~~A~~ Is married and is a parent of a child included in the 39184
same assistance group that does not include an adult. 39185

(G) "Ohio works first" means the program established by this 39186
chapter known as temporary assistance for needy families in Title 39187
IV-A. 39188

(H) "Payment standard" means the amount specified in rules 39189
adopted under section 5107.05 of the Revised Code that is the 39190
maximum amount of cash assistance an assistance group may receive 39191
under Ohio works first from state and federal funds. 39192

(I) "Specified relative" means the following individuals who 39193
are age eighteen or older: 39194

(1) The following individuals related by blood or adoption: 39195

(a) Grandparents, including grandparents with the prefix 39196
"great," "great-great," or "great-great-great"; 39197

(b) Siblings; 39198

(c) Aunts, uncles, nephews, and nieces, including such 39199

relatives with the prefix "great," "great-great," "grand," or "great-grand";	39200 39201
(d) First cousins and first cousins once removed.	39202
(2) Stepparents and stepsiblings;	39203
(3) Spouses and former spouses of individuals named in division (I)(1) or (2) of this section.	39204 39205
(J) "Title IV-A" or "Title IV-D" means Title IV-A or Title IV-D of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.	39206 39207 39208
Sec. 5107.30. (A) As used in this section:	39209
(1) "LEAP program" means the learning, earning, and parenting program.	39210 39211
(2) "Teen" means a participant of Ohio works first who is under age twenty <u>eighteen or is age eighteen and in school</u> and is a natural or adoptive parent or is pregnant.	39212 39213 39214
(3) "School" means an educational program that is designed to lead to the attainment of a high school diploma or the equivalent of a high school diploma.	39215 39216 39217
(B) The director of job and family services may adopt rules under section 5107.05 of the Revised Code, to the extent that such rules are consistent with federal law, to do all of the following:	39218 39219 39220
(1) Define "good cause" and "the equivalent of a high school diploma" for the purposes of this section;	39221 39222
(2) Conduct one or more special demonstration programs a <u>program</u> titled the "LEAP program" and establish requirements governing the program. The purpose of the LEAP program is to encourage teens to complete school.	39223 39224 39225 39226
(3) Require every teen who is subject to LEAP program requirements to attend school in accordance with the requirements	39227 39228

governing the program unless the teen shows good cause for not 39229
attending school. The department shall provide, in addition to the 39230
cash assistance payment provided under Ohio works first, an 39231
incentive payment, in an amount determined by the department, to 39232
every teen who is participating in the LEAP program and attends 39233
school in accordance with the requirements governing the program. 39234
The department shall reduce the cash assistance payment, in an 39235
amount determined by the department, under Ohio works first to 39236
every teen participating in the LEAP program who fails or refuses, 39237
without good cause, to ~~attend school in accordance with~~ meet the 39238
requirements governing the program. 39239

(4) Require every teen who is subject to LEAP program 39240
requirements to enter into a written agreement with the county 39241
department of job and family services that provides all of the 39242
following: 39243

(a) The teen, to be eligible to receive the incentive payment 39244
under division (B)(3) of this section, must ~~attend school in~~ 39245
~~accordance with~~ meet the requirements of the LEAP program. 39246

(b) The county department will provide the incentive payment 39247
to the teen if the teen ~~attends school;~~ meets the requirements of 39248
the LEAP program. 39249

(c) The county department will reduce the cash assistance 39250
payment under Ohio works first if the teen fails or refuses 39251
without good cause to attend school in accordance with the 39252
requirements governing the LEAP program. 39253

~~(5) Evaluate the demonstration programs established under 39254
this section. In conducting the evaluations, the department of job 39255
and family services shall select control groups of teens who are 39256
otherwise subject to the LEAP program requirements. 39257~~

(C) A ~~teen~~ minor head of household who is participating in 39258
the LEAP program shall be considered to be participating in a work 39259

activity for the purpose of sections 5107.40 to 5107.69 of the Revised Code. However, the ~~teen~~ minor head of household is not subject to the requirements or sanctions of those sections, ~~unless the teen is over age eighteen and meets the LEAP program requirements by participating regularly in work activities, developmental activities, or alternative work activities under those sections.~~

(D) Subject to the availability of funds, county departments of job and family services shall provide for LEAP participants to receive support services the county department determines to be necessary for LEAP participation. Support services may include publicly funded child day-care under Chapter 5104. of the Revised Code, transportation, and other services.

Sec. 5107.37. ~~An~~ (A) Except as provided in division (B) of this section, an individual who resides in a county home, city infirmary, jail, or other public institution is not eligible to participate in Ohio works first.

(B) Division (A) of this section does not apply to a minor child residing with the minor child's mother who participates in a prison nursery program established under section 5120.65 of the Revised Code.

Sec. 5107.40. As used in sections 5107.40 to 5107.69 of the Revised Code:

(A) "Alternative work activity" means an activity designed to promote self sufficiency and personal responsibility established by a county department of job and family services under section 5107.64 of the Revised Code.

(B) "Developmental activity" means an activity designed to promote self sufficiency and personal responsibility established by a county department of job and family services under section

5107.62 of the Revised Code.	39290
(C) "High school equivalence diploma" means a diploma	39291
attesting to achievement of the equivalent of a high school	39292
education as measured by scores obtained on the tests of general	39293
educational development published by the American council on	39294
education. "High school equivalence diploma" includes a	39295
certificate of high school equivalence issued prior to January 1,	39296
1994, attesting to the achievement of the equivalent of a high	39297
school education as measured by scores obtained on tests of	39298
general educational development.	39299
(D) "Work activity" means the following:	39300
(1) Unsubsidized employment activities established under	39301
section 5107.60 of the Revised Code;	39302
(2) The subsidized employment program established under	39303
section 5107.52 of the Revised Code;	39304
(3) The work experience program established under section	39305
5107.54 of the Revised Code;	39306
(4) On-the-job training activities established under section	39307
5107.60 of the Revised Code;	39308
(5) The job search and readiness program established under	39309
section 5107.50 of the Revised Code;	39310
(6) Community service activities established under section	39311
5107.60 of the Revised Code;	39312
(7) Vocational educational training activities established	39313
under section 5107.60 of the Revised Code;	39314
(8) Jobs skills training activities established under section	39315
5107.60 of the Revised Code that are directly related to	39316
employment;	39317
(9) Education activities established under section 5107.60 of	39318
the Revised Code that are directly related to employment for	39319

participants of Ohio works first who have not earned a high school diploma or high school equivalence diploma; 39320
39321

(10) Education activities established under section 5107.60 of the Revised Code for participants of Ohio works first who have not completed secondary school or received a high school equivalence diploma under which the participants attend a secondary school or a course of study leading to a high school equivalence diploma; 39322
39323
39324
39325
39326
39327

(11) Child-care service activities, including training, established under section 5107.60 of the Revised Code to aid another participant of Ohio works first assigned to a community service activity or other work activity; 39328
39329
39330
39331

(12) The education program established under section 5107.58 of the Revised Code that are operated pursuant to a federal waiver granted by the United States secretary of health and human services pursuant to a request made under former section 5101.09 of the Revised Code; 39332
39333
39334
39335
39336

(13) ~~Except as limited~~ To the extent provided by division (C) of section 5107.30 of the Revised Code, the LEAP program established under that section. 39337
39338
39339

Sec. 5107.60. In accordance with Title IV-A, federal regulations, state law, the Title IV-A state plan prepared under section 5101.80 of the Revised Code, and amendments to the plan, county departments of job and family services shall establish and administer the following work activities, in addition to the work activities established under sections 5107.50, 5107.52, 5107.54, and 5107.58 of the Revised Code, for minor heads of households and adults participating in Ohio works first: 39340
39341
39342
39343
39344
39345
39346
39347

(A) Unsubsidized employment activities, including activities a county department determines are legitimate entrepreneurial 39348
39349

activities;	39350
(B) On-the-job training activities, including training to become an employee of a child day-care center or type A family day-care home, authorized provider of a certified type B family day-care home, or in-home aide;	39351 39352 39353 39354
(C) Community service activities including a program under which a participant of Ohio works first who is the parent, guardian, custodian, or specified relative responsible for the care of a minor child enrolled in grade twelve or lower is involved in the minor child's education on a regular basis;	39355 39356 39357 39358 39359
(D) Vocational educational training activities;	39360
(E) Jobs skills training activities that are directly related to employment;	39361 39362
(F) Education activities that are directly related to employment for participants who have not earned a high school diploma or high school equivalence diploma;	39363 39364 39365
(G) Education activities for participants who have not completed secondary school or received a high school equivalence diploma under which the participants attend a secondary school or a course of study leading to a high school equivalence diploma, <u>including LEAP participation by a minor head of household;</u>	39366 39367 39368 39369 39370
(H) Child-care service activities aiding another participant assigned to a community service activity or other work activity. A county department may provide for a participant assigned to this work activity to receive training necessary to provide child-care services.	39371 39372 39373 39374 39375
Sec. 5108.01. As used in this chapter:	39376
(A) "Assistance group" means a group of individuals treated as a unit for purposes of determining eligibility for the prevention, retention, and contingency program <u>"County family</u>	39377 39378 39379

services planning committee" means the county family services 39380
planning committee established under section 329.06 of the Revised 39381
Code or the board created by consolidation under division (C) of 39382
section 6301.06 of the Revised Code. 39383

(B) "Prevention, retention, and contingency program" means 39384
the program established by this chapter and funded in part with 39385
federal funds provided under Title IV-A. 39386

(C) "Title IV-A" means Title IV-A of the "Social Security 39387
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. 39388

Sec. 5108.03. Under the prevention, retention, and 39389
contingency program, ~~a~~ each county department of job and family 39390
services shall ~~provide~~ do both of the following in accordance with 39391
the statement of policies the county department develops under 39392
section 5108.04 of the Revised Code: 39393

(A) Provide benefits and services that individuals need to 39394
overcome immediate barriers to achieving or maintaining self 39395
sufficiency and personal responsibility; 39396

(B) Perform related administrative duties. ~~A county~~ 39397
~~department shall provide the benefits and services in accordance~~ 39398
~~with either the model design for the program that the department~~ 39399
~~of job and family services develops under section 5108.05 of the~~ 39400
~~Revised Code or the county department's own policies for the~~ 39401
~~program developed under section 5108.06 of the Revised Code.~~ 39402

Sec. 5108.06 **5108.04.** Each county department of job and 39403
family services shall ~~either adopt the model design for a written~~ 39404
statement of policies governing the prevention, retention, and 39405
contingency program ~~the department of job and family services~~ 39406
~~develops under section 5108.05 of the Revised Code or develop its~~ 39407
~~own policies~~ for the program county. ~~To develop its own policies,~~ 39408
~~a county department shall adopt a written statement of the~~ 39409

~~policies governing the program. The policies may be a modification of the model design, different from the model design, or a combination. The statement of policies shall be adopted not later than October 1, 2003, and shall be updated at least every two years thereafter. A county department may amend its statement of policies to modify, terminate, and establish new policies. The county director of job and family services shall sign and date the statement of policies and any amendment to it. Neither the statement of policies nor any amendment to it may have an effective date that is earlier than the date of the county director's signature.~~ 39410
39411
39412
39413
39414
39415
39416
39417
39418
39419
39420

~~A Each county department of job and family services shall inform provide the department of job and family services of whether it has adopted the model design or developed its own policies for the prevention, retention, and contingency program. If a county department develops its own policies, it shall provide the department a written copy of the statement of policies and any amendments it adopts to the statement not later than ten calendar days after the statement or amendment's effective date.~~ 39421
39422
39423
39424
39425
39426
39427
39428

~~Sec. 5108.07 5108.05. The model design for the prevention, retention, and contingency program that the department of job and family services develops under section 5108.05 of the Revised Code and policies for the program that a county department of job and family services may develop under section 5108.06 of the Revised Code shall establish In adopting a statement of policies under section 5108.04 of the Revised Code for the county's prevention, retention, and contingency program, each county department of job and family services shall do all of the following:~~ 39429
39430
39431
39432
39433
39434
39435
39436
39437

~~(A) Establish or specify eligibility requirements for assistance groups that apply for the program under section 5108.10 of the Revised Code, benefits all of the following:~~ 39438
39439
39440

(1) Benefits and services to be provided under the program to assistance groups, administrative that are allowable uses of federal Title IV-A funds under 42 U.S.C. 601 and 604(a), except that they may not be "assistance" as defined in 45 C.F.R. 260.31(a) but rather benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of assistance; 39441
39442
39443
39444
39445
39446

(2) Restrictions on the amount, duration, and frequency of the benefits and services; 39447
39448

(3) Eligibility requirements for the benefits and services; 39449

(4) Fair and equitable procedures for both of the following: 39450

(a) The certification of eligibility for the benefits and services that do not have a financial need eligibility requirement; 39451
39452
39453

(b) The determination and verification of eligibility for the benefits and services that have a financial need eligibility requirement. 39454
39455
39456

(5) Objective criteria for the delivery of the benefits and services; 39457
39458

(6) Administrative requirements, and other; 39459

(7) Other matters the department, in the case of the model design, or a county department, in the case of county policies, determine determines are necessary. 39460
39461
39462

~~The model design and a county department's policies may establish eligibility requirements for, and specify benefits and services to be provided to, types of groups, such as students in the same class, that share a common need for the benefits and services. If the model design or a county department's policies include such a provision, the model design or county department's policies shall require that each individual who is to receive the benefits and services meet the eligibility requirements~~ 39463
39464
39465
39466
39467
39468
39469
39470

~~established for the type of group of which the individual is a member. The model design or county department's policies also shall require that the county department providing the benefits and services certify the group's eligibility, specify the duration that the group is to receive the benefits and services, and maintain the eligibility information for each member of the group receiving the benefits and services.~~

~~The model design and a county department's policies may specify benefits and services that a county department may provide for the general public, including billboards that promote the prevention, and reduction in the incidence, of out of wedlock pregnancies or encourage the formation and maintenance of two parent families.~~

~~The model design and a county department's policies must be consistent with (B) Provide for the statement of policies to be consistent with all of the following:~~

~~(1) The plan of cooperation the board of county commissioners develops under section 307.983 of the Revised Code;~~

~~(2) The review and analysis of the county family services committee conducted in accordance with division (B)(2) of section 329.06 of the Revised Code;~~

~~(3) Title IV-A, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, and amendments to the plan. All benefits and services to be provided under the model design or a county department's policies must be allowable uses of federal Title IV A funds as specified in 42 U.S.C.A. 604(a), except that they may not be "assistance" as defined in 45 C.F.R. 260.31(a). The benefits and services shall be benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of assistance.~~

(C) Either provide the public and local government entities at least thirty days to submit comments on, or have the county family services planning committee review, the statement of policies, including the design of the county's prevention, retention, and contingency program, before the county director signs and dates the statement of policies.

Sec. 5108.06. In adopting a statement of policies under section 5108.04 of the Revised Code for the county's prevention, retention, and contingency program, a county department of job and family services may specify both of the following:

(A) Benefits and services to be provided under the program that prevent and reduce the incidence of out-of-wedlock pregnancies or encourage the formation and maintenance of two-parent families as permitted by 45 C.F.R. 260.20(c) and (d);

(B) How the county department will certify individuals' eligibility for such benefits and services.

Sec. 5108.07. (A) Each statement of policies adopted under section 5108.04 of the Revised Code shall include the board of county commissioners' certification that the county department of job and family services complied with this chapter in adopting the statement of policies.

(B) The board of county commissioners shall revise its certification under division (A) of this section if an amendment to the statement of policies that the board considers to be significant is adopted under section 5108.04 of the Revised Code.

Sec. 5108.09. When a state hearing under division (B) of section 5101.35 of the Revised Code or an administrative appeal under division (C) of that section is held regarding the prevention, retention, and contingency program, the hearing

officer, director of job and family services, or director's 39531
designee shall base the decision in the hearing or appeal on the 39532
following: 39533

~~(A) If the county department of job and family services 39534
involved in the hearing or appeal adopted the department of job 39535
and family services' model design for the program developed under 39536
section 5108.05 of the Revised Code, the model design: 39537~~

~~(B) If the county department developed its own policies for 39538
the program, the county department's department of job and family 39539
services' written statement of policies adopted under section 39540
5108.06 5108.04 of the Revised Code and any amendments the county 39541
department adopted to the statement if the county department 39542
provides a copy of the statement of policies and all amendments to 39543
the hearing officer, director, or director's designee at the 39544
hearing or appeal. 39545~~

~~**Sec. 5108.10.** An assistance group seeking to participate in 39546
the prevention, retention, and contingency program shall apply to 39547
a county department of job and family services using Eligibility 39548
for a benefit or service under a county's prevention, retention, 39549
and contingency program shall be certified in accordance with the 39550
statement of policies adopted under section 5108.04 of the Revised 39551
Code if the benefit or service does not have a financial need 39552
eligibility requirement. 39553~~

~~Eligibility for a benefit or service shall be determined in 39554
accordance with the statement of policies and based on an 39555
application containing information the county department of job 39556
and family services requires. 39557~~

~~When if the benefit or service has a financial need 39558
eligibility requirement. When a county department receives an 39559
application for participation in the prevention, retention, and 39560
contingency program such benefits and services, it shall promptly 39561~~

~~make an investigation and record of the circumstances of the~~ 39562
~~applicant in order to ascertain~~ follow verification procedures 39563
established by the statement of policies to verify the facts 39564
surrounding the application and to obtain such other information 39565
as may be required. On completion of the ~~investigation~~ 39566
verification procedure, the county department shall determine 39567
whether the applicant is eligible ~~to participate,~~ for the benefits 39568
or services ~~the applicant should receive,~~ and the approximate date 39569
when ~~participation is~~ the benefits or services are to begin. 39570

Sec. 5108.11. (A) To the extent permitted by section 307.982 39571
of the Revised Code, a board of county commissioners may enter 39572
into a written contract with a private or government entity for 39573
the entity to do either or both of the following for the county's 39574
prevention, retention, and contingency program: 39575

(1) Certify eligibility for benefits and services that do not 39576
have a financial need eligibility requirement; 39577

(2) Accept applications and determine and verify eligibility 39578
for benefits and services that have a financial need eligibility 39579
requirement. 39580

(B) If a board of county commissioners enters into a contract 39581
under division (A) of this section with a private or government 39582
entity, the county department of job and family services shall do 39583
all of the following: 39584

(1) Ensure that eligibility for benefits and services is 39585
certified or determined and verified in accordance with the 39586
statement of policies adopted under section 5108.04 of the Revised 39587
Code; 39588

(2) Ensure that the private or government entity maintains 39589
all records that are necessary for audits; 39590

(3) Monitor the private or government entity for compliance 39591

with Title IV-A, this chapter of the Revised Code, and the 39592
statement of policies; 39593

(4) Take actions that are necessary to recover any funds that 39594
are not spent in accordance with Title IV-A or this chapter of the 39595
Revised Code. 39596

Sec. 5108.12. Each county department of job and family 39597
services is responsible for funds expended or claimed under the 39598
county's prevention, retention, and contingency program that the 39599
department of job and family services, auditor of state, United 39600
States department of health and human services, or other 39601
government entity determines is expended or claimed in a manner 39602
that federal or state law or policy does not permit. 39603

Sec. 5111.019. (A) The If sufficient funds are appropriated 39604
by the general assembly, the director of job and family services 39605
~~shall~~ may submit to the United States secretary of health and 39606
human services an amendment to the state medicaid plan to make an 39607
individual who meets all of the following requirements eligible 39608
for medicaid for the amount of time provided by division (B) of 39609
this section: 39610

(1) The individual is the parent of a child under nineteen 39611
years of age and resides with the child; 39612

(2) The individual's family income does not exceed one 39613
hundred per cent of the federal poverty guidelines; 39614

(3) The individual is not otherwise eligible for medicaid; 39615

(4) The individual satisfies all relevant requirements 39616
established by rules adopted under division (D) of section 5111.01 39617
of the Revised Code. 39618

(B) An individual is eligible to receive medicaid under this 39619
section for a period that does not exceed two years beginning on 39620

the date on which eligibility is established. 39621

~~(C) If approved by the United States secretary of health and 39622
human services and the director of job and family services, the 39623
director shall implement the medicaid plan amendment submitted 39624
under this section not sooner than July 1, 2000. If a federal 39625
waiver is necessary for the United States secretary to approve the 39626
amendment, the director of job and family services shall submit a 39627
waiver request to the United States secretary not later than 39628
ninety days after the effective date of this section. 39629~~

Sec. 5111.0112. The director of job and family services shall 39630
examine instituting a copayment program under medicaid. As part of 39631
the examination, the director shall determine which groups of 39632
medicaid recipients may be subjected to a copayment requirement 39633
under federal statutes and regulations ~~and which of those groups 39634
are appropriate for a copayment program designed to reduce 39635
inappropriate and excessive use of medical goods and services. If, 39636
on completion of the examination, the director determines that it 39637
is feasible to institute such a copayment program, the director 39638
may seek approval from the United States secretary of health and 39639
human services to institute the copayment program. If necessary, 39640
the director may seek approval by applying for a waiver of federal 39641
statutes and regulations. If such approval is obtained, the 39642
director shall adopt rules in accordance with Chapter 119. of the 39643
Revised Code governing the copayment program. 39644~~

Sec. 5111.0113. Children who are in the temporary or 39645
permanent custody of a certified public or private nonprofit 39646
agency or institution or in adoptions subsidized under division 39647
(B) of section 5153.163 of the Revised Code are eligible for 39648
medical assistance through the medicaid program established under 39649
section 5111.01 of the Revised Code. 39650

Sec. 5111.02. (A) Under the medical assistance program: 39651

(1) Except as otherwise permitted by federal statute or 39652
regulation and at the department's discretion, reimbursement by 39653
the department of job and family services to a medical provider 39654
for any medical service rendered under the program shall not 39655
exceed the authorized reimbursement level for the same service 39656
under the medicare program established under Title XVIII of the 39657
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 39658
amended. 39659

(2) Reimbursement for freestanding medical laboratory charges 39660
shall not exceed the customary and usual fee for laboratory 39661
profiles. 39662

(3) The department may deduct from payments for services 39663
rendered by a medicaid provider under the medical assistance 39664
program any amounts the provider owes the state as the result of 39665
incorrect medical assistance payments the department has made to 39666
the provider. 39667

(4) The department may conduct final fiscal audits in 39668
accordance with the applicable requirements set forth in federal 39669
laws and regulations and determine any amounts the provider may 39670
owe the state. When conducting final fiscal audits, the department 39671
shall consider generally accepted auditing standards, which 39672
include the use of statistical sampling. 39673

(5) The number of days of inpatient hospital care for which 39674
reimbursement is made on behalf of a recipient of medical 39675
assistance to a hospital that is not paid under a 39676
diagnostic-related-group prospective payment system shall not 39677
exceed thirty days during a period beginning on the day of the 39678
recipient's admission to the hospital and ending sixty days after 39679
the termination of that hospital stay, except that the department 39680

may make exceptions to this limitation. The limitation does not 39681
apply to children participating in the program for medically 39682
handicapped children established under section 3701.023 of the 39683
Revised Code. 39684

(B) The director of job and family services may adopt, amend, 39685
or rescind rules under Chapter 119. of the Revised Code 39686
establishing the amount, duration, and scope of medical services 39687
to be included in the medical assistance program. Such rules shall 39688
establish the conditions under which services are covered and 39689
reimbursed, the method of reimbursement applicable to each covered 39690
service, and the amount of reimbursement or, in lieu of such 39691
amounts, methods by which such amounts are to be determined for 39692
each covered service. ~~Any rules that pertain to nursing facilities 39693
or intermediate care facilities for the mentally retarded shall be 39694
consistent with sections 5111.20 to 5111.33 of the Revised Code.~~ 39695

~~(C) No health insuring corporation that has a contract to 39696
provide health care services to recipients of medical assistance 39697
shall restrict the availability to its enrollees of any 39698
prescription drugs included in the Ohio medicaid drug formulary as 39699
established under rules adopted by the director.~~ 39700

~~(D)~~ The division of any reimbursement between a collaborating 39701
physician or podiatrist and a clinical nurse specialist, certified 39702
nurse-midwife, or certified nurse practitioner for services 39703
performed by the nurse shall be determined and agreed on by the 39704
nurse and collaborating physician or podiatrist. In no case shall 39705
reimbursement exceed the payment that the physician or podiatrist 39706
would have received had the physician or podiatrist provided the 39707
entire service. 39708

Sec. 5111.021. Under the medical assistance program, any 39709
amount determined to be owed the state by a final fiscal audit 39710
conducted pursuant to division (A)(4) of section 5111.02 of the 39711

Revised Code, upon the issuance of an adjudication order pursuant 39712
to Chapter 119. of the Revised Code that contains a finding that 39713
there is a preponderance of the evidence that the provider will 39714
liquidate assets or file bankruptcy in order to prevent payment of 39715
the amount determined to be owed the state, becomes a lien upon 39716
the real and personal property of the provider. Upon failure of 39717
the provider to pay the amount to the state, the director of job 39718
and family services shall file notice of the lien, for which there 39719
shall be no charge, in the office of the county recorder of the 39720
county in which it is ascertained that the provider owns real or 39721
personal property. The director shall notify the provider by mail 39722
of the lien, but absence of proof that the notice was sent does 39723
not affect the validity of the lien. The lien is not valid as 39724
against the claim of any mortgagee, pledgee, purchaser, judgment 39725
creditor, or other lienholder of record at the time the notice is 39726
filed. 39727

If the provider acquires real or personal property after 39728
notice of the lien is filed, the lien shall not be valid as 39729
against the claim of any mortgagee, pledgee, subsequent bona fide 39730
purchaser for value, judgment creditor, or other lienholder of 39731
record to such after-acquired property unless the notice of lien 39732
is refiled after the property is acquired by the provider and 39733
before the competing lien attaches to the after-acquired property 39734
or before the conveyance to the subsequent bona fide purchaser for 39735
value. 39736

When the amount has been paid, the provider may record with 39737
the recorder notice of the payment. For recording such notice of 39738
payment, the recorder shall charge and receive from the provider a 39739
base fee of one dollar for services and a housing trust fund fee 39740
of one dollar pursuant to section 317.36 of the Revised Code. 39741

In the event of a distribution of a provider's assets 39742
pursuant to an order of any court under the law of this state 39743

including any receivership, assignment for benefit of creditors, 39744
adjudicated insolvency, or similar proceedings, amounts then or 39745
thereafter due the state under this chapter have the same priority 39746
as provided by law for the payment of taxes due the state and 39747
shall be paid out of the receivership trust fund or other such 39748
trust fund in the same manner as provided for claims for unpaid 39749
taxes due the state. 39750

If the attorney general finds after investigation that any 39751
amount due the state under this chapter is uncollectable, in whole 39752
or in part, the attorney general shall recommend to the director 39753
the cancellation of all or part of the claim. The director may 39754
thereupon effect the cancellation. 39755

Sec. 5111.022. (A) As used in this section: 39756

(1) "Community mental health facility" means a community 39757
mental health facility that has a quality assurance program 39758
accredited by the joint commission on accreditation of healthcare 39759
organizations or is certified by the department of mental health 39760
or department of job and family services. 39761

(2) "Mental health professional" means a person qualified to 39762
work with mentally ill persons under the standards established by 39763
the director of mental health pursuant to section 5119.611 of the 39764
Revised Code. 39765

(B) The state ~~medicaid~~ plan for ~~providing medical assistance~~ 39766
~~under Title XIX of the "Social Security Act," 49 Stat. 620, 42~~ 39767
~~U.S.C.A. 301, as amended,~~ shall include provision of the following 39768
mental health services when provided by community mental health 39769
~~facilities described in division (B) of this section:~~ 39770

(1) Outpatient mental health services, including, but not 39771
limited to, preventive, diagnostic, therapeutic, rehabilitative, 39772
and palliative interventions rendered to individuals in an 39773

individual or group setting by a mental health professional in 39774
accordance with a plan of treatment appropriately established, 39775
monitored, and reviewed; 39776

(2) Partial-hospitalization mental health services of three 39777
to fourteen hours per service day, rendered by persons directly 39778
supervised by a mental health professional; 39779

(3) Unscheduled, emergency mental health services of a kind 39780
ordinarily provided to persons in crisis when rendered by persons 39781
supervised by a mental health professional; 39782

(4) Subject to receipt of federal approval, assertive 39783
community treatment and intensive home-based mental health 39784
services. 39785

~~(B) Services shall be included in the state plan only when 39786~~
~~provided by community mental health facilities that have quality 39787~~
~~assurance programs accredited by the joint commission on 39788~~
~~accreditation of healthcare organizations or certified by the 39789~~
~~department of mental health or department of job and family 39790~~
~~services.~~ 39791

(C) The comprehensive annual plan shall certify the 39792
availability of sufficient unencumbered community mental health 39793
state subsidy and local funds to match Title XIX federal medicaid 39794
reimbursement funds earned by the community mental health 39795
facilities. ~~Reimbursement for eligible services shall be based on 39796~~
~~the prospective cost of providing the services as developed in 39797~~
~~standards adopted as part of the comprehensive annual plan.~~ 39798

~~(D) As used in this section, "mental health professional" 39799~~
~~means a person qualified to work with mentally ill persons under 39800~~
~~the standards established by the director of mental health 39801~~
~~pursuant to section 5119.611 of the Revised Code.~~ 39802

~~(E) With respect to services established by division (A) of 39803~~
~~this section, the The department of job and family services shall 39804~~

enter into a separate contract with the department of mental 39805
health under section 5111.91 of the Revised Code with regard to 39806
the component of the medicaid program provided for by this 39807
section. ~~The terms of the contract between the department of job~~ 39808
~~and family services and the department of mental health shall~~ 39809
~~specify both of the following:~~ 39810

~~(1) That the department of mental health and boards of~~ 39811
~~alcohol, drug addiction, and mental health services shall provide~~ 39812
~~state and local matching funds for Title XIX of the "Social~~ 39813
~~Security Act," for reimbursement of services established by~~ 39814
~~division (A) of this section;~~ 39815

~~(2) How the community mental health facilities described in~~ 39816
~~division (B) of this section will be paid for providing the~~ 39817
~~services established by division (A) of this section.~~ 39818

(E) Not later than May 1, 2004, the department of job and 39819
family services shall request federal approval to provide 39820
assertive community treatment and intensive home-based mental 39821
health services under medicaid pursuant to this section. 39822

(F) On receipt of federal approval sought under division (F) 39823
of this section, the director of job and family services shall 39824
adopt rules in accordance with Chapter 119. of the Revised Code 39825
establishing statewide access and acuity standards for partial 39826
hospitalization, mental health services and assertive community 39827
treatment and intensive home-based mental health services provided 39828
under medicaid pursuant to this section. The director shall 39829
consult with the department of mental health in adopting the 39830
rules. 39831

Sec. 5111.025. (A) In rules adopted under section 5111.02 of 39832
the Revised Code, the director of job and family services may 39833
modify the manner or establish a new manner in which the following 39834
are paid under medicaid: 39835

(1) Community mental health facilities for providing mental health services included in the state medicaid plan pursuant to section 5111.022 of the Revised Code; 39836
39837
39838

(2) Providers of alcohol and drug addiction services for providing alcohol and drug addiction services included in the medicaid program pursuant to rules adopted under section 5111.02 of the Revised Code. 39839
39840
39841
39842

(B) The director's authority to modify the manner, or to establish a new manner, for medicaid to pay for the services specified in division (A) of this section is not limited by any rules adopted under section 5111.02 or 5119.61 of the Revised Code that are in effect on the effective date of this section and govern the way medicaid pays for those services. This is the case regardless of what state agency adopted the rules. 39843
39844
39845
39846
39847
39848
39849

Sec. 5111.03. (A) No provider of services or goods 39850
contracting with the department of job and family services 39851
pursuant to the medicaid program shall, by deception, obtain or 39852
attempt to obtain payments under this chapter to which the 39853
provider is not entitled pursuant to the provider agreement, or 39854
the rules of the federal government or the department of job and 39855
family services relating to the program. No provider shall 39856
willfully receive payments to which the provider is not entitled, 39857
or willfully receive payments in a greater amount than that to 39858
which the provider is entitled; nor shall any provider falsify any 39859
report or document required by state or federal law, rule, or 39860
provider agreement relating to medicaid payments. As used in this 39861
section, a provider engages in "deception" when the provider, 39862
acting with actual knowledge of the representation or information 39863
involved, acting in deliberate ignorance of the truth or falsity 39864
of the representation or information involved, or acting in 39865
reckless disregard of the truth or falsity of the representation 39866

or information involved, deceives another or causes another to be 39867
deceived by any false or misleading representation, by withholding 39868
information, by preventing another from acquiring information, or 39869
by any other conduct, act, or omission that creates, confirms, or 39870
perpetuates a false impression in another, including a false 39871
impression as to law, value, state of mind, or other objective or 39872
subjective fact. No proof of specific intent to defraud is 39873
required to show, for purposes of this section, that a provider 39874
has engaged in deception. 39875

(B) Any provider who violates division (A) of this section 39876
shall be liable, in addition to any other penalties provided by 39877
law, for all of the following civil penalties: 39878

(1) Payment of interest on the amount of the excess payments 39879
at the maximum interest rate allowable for real estate mortgages 39880
under section 1343.01 of the Revised Code on the date the payment 39881
was made to the provider for the period from the date upon which 39882
payment was made, to the date upon which repayment is made to the 39883
state; 39884

(2) Payment of an amount equal to three times the amount of 39885
any excess payments; 39886

(3) Payment of a sum of not less than five thousand dollars 39887
and not more than ten thousand dollars for each deceptive claim or 39888
falsification; 39889

(4) All reasonable expenses which the court determines have 39890
been necessarily incurred by the state in the enforcement of this 39891
section. 39892

(C) ~~In~~ As used in this division, "intermediate care facility 39893
for the mentally retarded" and "nursing facility" have the same 39894
meanings given in section 5111.20 of the Revised Code. 39895

In addition to the civil penalties provided in division (B) 39896
of this section, the director of job and family services, upon the 39897

conviction of, or the entry of a judgment in either a criminal or 39898
civil action against, a medicaid provider or its owner, officer, 39899
authorized agent, associate, manager, or employee in an action 39900
brought pursuant to section 109.85 of the Revised Code, shall 39901
terminate the provider agreement between the department and the 39902
provider and stop reimbursement to the provider for services 39903
rendered for a period of up to five years from the date of 39904
conviction or entry of judgment. As used in this chapter, "owner" 39905
means any person having at least five per cent ownership in the 39906
medicaid provider. No such provider, owner, officer, authorized 39907
agent, associate, manager, or employee shall own or provide 39908
services to any other medicaid provider or risk contractor or 39909
arrange for, render, or order services for medicaid recipients 39910
during the period of termination as provided in division (C) of 39911
this section, nor, during the period of termination as provided in 39912
division (C) of this section, shall such provider, owner, officer, 39913
authorized agent, associate, manager, or employee receive 39914
reimbursement in the form of direct payments from the department 39915
or indirect payments of medicaid funds in the form of salary, 39916
shared fees, contracts, kickbacks, or rebates from or through any 39917
participating provider or risk contractor. The provider agreement 39918
shall not be terminated or reimbursement terminated if the 39919
provider or owner can demonstrate that the provider or owner did 39920
not directly or indirectly sanction the action of its authorized 39921
agent, associate, manager, or employee that resulted in the 39922
conviction or entry of a judgment in a criminal or civil action 39923
brought pursuant to section 109.85 of the Revised Code. Nothing in 39924
this division prohibits any owner, officer, authorized agent, 39925
associate, manager, or employee of a medicaid provider from 39926
entering into a medicaid provider agreement if the person can 39927
demonstrate that the person had no knowledge of an action of the 39928
medicaid provider the person was formerly associated with that 39929
resulted in the conviction or entry of a judgment in a criminal or 39930

civil action brought pursuant to section 109.85 of the Revised Code. 39931
39932

~~Providers subject to sections 5111.20 to 5111.32 of the~~ 39933
~~Revised Code~~ Nursing facility or intermediate care facility for 39934
the mentally retarded providers whose agreements are terminated 39935
pursuant to this section may continue to receive reimbursement for 39936
up to thirty days after the effective date of the termination if 39937
the provider makes reasonable efforts to transfer recipients to 39938
another facility or to alternate care and if federal funds are 39939
provided for such reimbursement. 39940

(D) Any provider of services or goods contracting with the 39941
department of job and family services pursuant to Title XIX of the 39942
"Social Security Act," who, without intent, obtains payments under 39943
this chapter in excess of the amount to which the provider is 39944
entitled, thereby becomes liable for payment of interest on the 39945
amount of the excess payments at the maximum real estate mortgage 39946
rate on the date the payment was made to the provider for the 39947
period from the date upon which payment was made to the date upon 39948
which repayment is made to the state. 39949

(E) The attorney general on behalf of the state may commence 39950
proceedings to enforce this section in any court of competent 39951
jurisdiction; and the attorney general may settle or compromise 39952
any case brought under this section with the approval of the 39953
department of job and family services. Notwithstanding any other 39954
provision of law providing a shorter period of limitations, the 39955
attorney general may commence a proceeding to enforce this section 39956
at any time within six years after the conduct in violation of 39957
this section terminates. 39958

(F) The authority, under state and federal law, of the 39959
department of job and family services or a county department of 39960
job and family services to recover excess payments made to a 39961
provider is not limited by the availability of remedies under 39962

sections 5111.11 and 5111.12 of the Revised Code for recovering 39963
benefits paid on behalf of recipients of medical assistance. 39964

The penalties under this chapter apply to any overpayment, 39965
billing, or falsification occurring on and after April 24, 1978. 39966
All moneys collected by the state pursuant to this section shall 39967
be deposited in the state treasury to the credit of the general 39968
revenue fund. 39969

Sec. 5111.06. (A)(1) As used in this section: 39970

(a) "Provider" means any person, institution, or entity that 39971
furnishes medicaid services under a provider agreement with the 39972
department of job and family services pursuant to Title XIX of the 39973
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 39974
amended. 39975

(b) "Party" has the same meaning as in division (G) of 39976
section 119.01 of the Revised Code. 39977

(c) "Adjudication" has the same meaning as in division (D) of 39978
section 119.01 of the Revised Code. 39979

(2) This section does not apply to any action taken by the 39980
department of job and family services under sections 5111.35 to 39981
5111.62 of the Revised Code. 39982

(B) Except as provided in division (D) of this section, the 39983
department shall do either of the following by issuing an order 39984
pursuant to an adjudication conducted in accordance with Chapter 39985
119. of the Revised Code: 39986

(1) Enter into or refuse to enter into a provider agreement 39987
with a provider, or suspend, terminate, renew, or refuse to renew 39988
an existing provider agreement with a provider; 39989

(2) Take any action based upon a final fiscal audit of a 39990
provider. 39991

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

(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the provider to have a license, permit, or certificate issued by an official, board, commission, department, division, bureau, or other agency of state government other than the department of job and family services, and the license, permit, or certificate has been denied or revoked.

(2) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (E) of section 5111.03 of the Revised Code;

(3) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act," and the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program;

(4) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program;

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

(E) The department may withhold payments for services

rendered by a medicaid provider under the medical assistance 40022
program during the pendency of proceedings initiated under 40023
division (B)(1) of this section. If the proceedings are initiated 40024
under division (B)(2) of this section, the department may withhold 40025
payments only to the extent that they equal amounts determined in 40026
a final fiscal audit as being due the state. This division does 40027
not apply if the department fails to comply with section 119.07 of 40028
the Revised Code, requests a continuance of the hearing, or does 40029
not issue a decision within thirty days after the hearing is 40030
completed. This division does not apply to nursing facilities and 40031
intermediate care facilities for the mentally retarded ~~subject to~~ 40032
~~sections as defined in section~~ 5111.20 to 5111.32 of the Revised 40033
Code. 40034

Sec. ~~5111.08~~ 5111.071. Commencing in December, 1986, and 40035
every second December thereafter, the director of job and family 40036
services shall establish a dispensing fee, effective the following 40037
January, for licensed pharmacists who are providers under this 40038
chapter. The dispensing fee shall take into consideration the 40039
results of the survey conducted under section 5111.07 of the 40040
Revised Code. 40041

Sec. ~~5111.16~~ 5111.08. In accordance with subsection (g) of 40042
section 1927 of the "Social Security Act," 49 Stat. 320 (1935), 42 40043
U.S.C.A. 1396r-8(g), as amended, the department of job and family 40044
services shall establish an outpatient drug use review program to 40045
assure that prescriptions obtained by recipients of medical 40046
assistance under this chapter are appropriate, medically 40047
necessary, and unlikely to cause adverse medical results. 40048

Sec. 5111.111. As used in this section, "home and 40049
community-based services" means services provided pursuant to a 40050
waiver under section 1915 of the "Social Security Act," 49 Stat. 40051

620 (1935), 42 U.S.C.A. 1396n, as amended. 40052

The department of job and family services may place a lien 40053
against the property of a medical assistance recipient or 40054
recipient's spouse, other than a recipient or spouse of a 40055
recipient of home and community-based services, that the 40056
department may recover as part of the program instituted under 40057
section 5111.11 of the Revised Code. When medical assistance is 40058
paid on behalf of any person in circumstances under which federal 40059
law and regulations and this section permit the imposition of a 40060
lien, the director of job and family services or a person 40061
designated by the director may sign a certificate to the effect. 40062
The county department of job and family services shall file for 40063
recording and indexing the certificate, or a certified copy, in 40064
the real estate mortgage records in the office of the county 40065
recorder in every county in which real property of the recipient 40066
or spouse is situated. From the time of filing the certificate in 40067
the office of the county recorder, the lien attaches to all real 40068
property of the recipient or spouse described therein for all 40069
amounts of aid which are paid or which thereafter are paid, and 40070
shall remain a lien until satisfied. 40071

Upon filing the certificate in the office of the recorder, 40072
all persons are charged with notice of the lien and the rights of 40073
the department of job and family services thereunder. 40074

The county recorder shall keep a record of every certificate 40075
filed showing its date, the time of filing, the name and residence 40076
of the recipient or spouse, and any release, waivers, or 40077
satisfaction of the lien. 40078

The priority of the lien shall be established in accordance 40079
with state and federal law. 40080

The department may waive the priority of its lien to provide 40081
for the costs of the last illness as determined by the department, 40082

administration, attorney fees, administrator fees, a sum for the 40083
payment of the costs of burial, which shall be computed by 40084
deducting from five hundred dollars whatever amount is available 40085
for the same purpose from all other sources, and a similar sum for 40086
the spouse of the decedent. 40087

Sec. 5111.16. (A) As part of the medicaid program, the 40088
department of job and family services shall establish a care 40089
management system. The department shall submit, if necessary, 40090
applications to the United States department of health and human 40091
services for waivers of federal medicaid requirements that would 40092
otherwise be violated in the implementation of the system. 40093

The department shall implement the care management system in 40094
some or all counties and shall designate the medicaid recipients 40095
who are required or permitted to participate in the system. Not 40096
later than July 1, 2004, the department shall include among the 40097
recipients designated for participation some of those who receive 40098
medicaid on the basis of being aged, blind, or disabled, as 40099
specified in division (A)(2) of section 5111.01 of the Revised 40100
Code. 40101

(B) Under the care management system, the department may do 40102
the following: 40103

(1) Require or permit participants in the system to obtain 40104
health care services from providers designated by the department; 40105

(2) Require or permit participants in the system to obtain 40106
health care services through managed care organizations under 40107
contract with the department pursuant to section 5111.17 of the 40108
Revised Code; 40109

(3) Establish any other requirements or procedures the 40110
department considers necessary for implementation of the system. 40111

(C) The director of job and family services may adopt rules 40112

in accordance with Chapter 119. of the Revised Code to implement 40113
this section. 40114

~~Sec. 5111.17. (A) On receipt of a waiver from the United~~ 40115
~~States department of health and human services of any federal~~ 40116
~~requirement that would otherwise be violated, the The~~ department 40117
of job and family services may establish in some or all counties a 40118
managed care system under which designated recipients of medical 40119
assistance are required to obtain health care services from 40120
providers designated by the department. 40121

~~(B) The department may enter into contracts with managed care~~ 40122
~~organizations to authorize, including health insuring~~ 40123
~~corporations, under which the organizations are authorized to~~ 40124
provide, or arrange for the provision of, health care services to 40125
medical assistance recipients participating in a who are required 40126
or permitted to obtain health care services through managed care 40127
organizations as part of the care management system established 40128
under this section 5111.16 of the Revised Code. 40129

~~(C) For the purpose of determining the amount the department~~ 40130
~~pays hospitals under section 5112.08 of the Revised Code and the~~ 40131
~~amount of disproportionate share hospital payments paid by the~~ 40132
~~medicare program established under Title XVIII of the "Social~~ 40133
~~Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ 40134
each managed care organization under contract with the department 40135
to provide hospital services to participating medical assistance 40136
recipients shall keep detailed records for each hospital with 40137
which it contracts about the cost to the hospital of providing the 40138
care, payments made by the organization to the hospital for the 40139
care, utilization of hospital services by medical assistance 40140
recipients participating in managed care, and other utilization 40141
data required by the department. 40142

~~(D)~~(B) The director of job and family services may adopt 40143

rules in accordance with Chapter 119. of the Revised Code to 40144
implement this section. 40145

Sec. 5111.171. (A) The department of job and family services 40146
may provide financial incentive awards to managed care 40147
organizations ~~that~~ under contract with the department ~~under~~ 40148
pursuant to section 5111.17 of the Revised Code to provide health 40149
~~care services to participating medical assistance recipients and~~ 40150
that meet or exceed performance standards specified in provider 40151
agreements or rules adopted by the department. The department may 40152
specify in a contract with a managed care organization the amounts 40153
of financial incentive awards, methodology for distributing 40154
awards, types of awards, and standards for administration by the 40155
department. 40156

(B) There is hereby created in the state treasury the health 40157
care compliance fund. The fund shall consist of all fines imposed 40158
on and collected from managed care organizations for failure to 40159
~~meet~~ meet performance standards or other requirements specified 40160
in provider agreements or rules adopted by the department. All 40161
investment earnings of the fund shall be credited to the fund. 40162
Moneys credited to the fund shall be used solely for the following 40163
purposes: 40164

(1) To reimburse managed care organizations that have paid 40165
fines for failures to meet performance standards or other 40166
requirements and that have come into compliance by meeting 40167
requirements as specified by the department; 40168

(2) To provide financial incentive awards established 40169
pursuant to division (A) of this section and specified in 40170
contracts between managed care organizations and the department. 40171

Sec. 5111.172. When contracting under section 5111.17 of the 40172
Revised Code with a managed care organization that is a health 40173

insuring corporation, the department of job and family services 40174
may require the health insuring corporation to provide coverage of 40175
prescription drugs for medicaid recipients enrolled in the health 40176
insuring corporation. In providing the required coverage, the 40177
health insuring corporation may, subject to the department's 40178
approval, use strategies for the management of drug utilization. 40179

Sec. 5111.173. The department of job and family services 40180
shall appoint a temporary manager for a managed care organization 40181
under contract with the department pursuant to section 5111.17 of 40182
the Revised Code if the department determines that the managed 40183
care organization has repeatedly failed to meet substantive 40184
requirements specified in section 1903(m) of the "Social Security 40185
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396b(m), as amended; section 40186
1932 of the Social Security Act, 42 U.S.C. 1396u-2, as amended; or 40187
42 C.F.R. 438 Part I. The appointment of a temporary manager does 40188
not preclude the department from imposing other sanctions 40189
available to the department against the managed care organization. 40190

The managed care organization shall pay all costs of having 40191
the temporary manager perform the temporary manager's duties, 40192
including all costs the temporary manager incurs in performing 40193
those duties. If the temporary manager incurs costs or liabilities 40194
on behalf of the managed care organization, the managed care 40195
organization shall pay those costs and be responsible for those 40196
liabilities. 40197

The appointment of a temporary manager is not subject to 40198
Chapter 119. of the Revised Code, but the managed care 40199
organization may request a reconsideration of the appointment. 40200
Reconsiderations shall be requested and conducted in accordance 40201
with rules the director of job and family services shall adopt in 40202
accordance with Chapter 119. of the Revised Code. 40203

The appointment of a temporary manager does not cause the 40204

managed care organization to lose the right to appeal, in 40205
accordance with Chapter 119. of the Revised Code, any proposed 40206
termination or any decision not to renew the managed care 40207
organization's medicaid provider agreement or the right to 40208
initiate the sale of the managed care organization or its assets. 40209

In addition to the rules required to be adopted under this 40210
section, the director may adopt any other rules necessary to 40211
implement this section. The rules shall be adopted in accordance 40212
with Chapter 119. of the Revised Code. 40213

Sec. 5111.174. The department of job and family services may 40214
disenroll some or all medicaid recipients enrolled in a managed 40215
care organization under contract with the department pursuant to 40216
section 5111.17 of the Revised Code if the department proposes to 40217
terminate or not to renew the contract and determines that the 40218
recipients' access to medically necessary services is jeopardized 40219
by the proposal to terminate or not to renew the contract. The 40220
disenrollment is not subject to Chapter 119. of the Revised Code, 40221
but the managed care organization may request a reconsideration of 40222
the disenrollment. Reconsiderations shall be requested and 40223
conducted in accordance with rules the director of job and family 40224
services shall adopt in accordance with Chapter 119. of the 40225
Revised Code. The request for, or conduct of, a reconsideration 40226
regarding a proposed disenrollment shall not delay the 40227
disenrollment. 40228

In addition to the rules required to be adopted under this 40229
section, the director may adopt any other rules necessary to 40230
implement this section. The rules shall be adopted in accordance 40231
with Chapter 119. of the Revised Code. 40232

Sec. 5111.175. In the case of a managed care organization 40233
under contract with the department of job and family services 40234

pursuant to section 5111.17 of the Revised Code authorizing the 40235
organization to provide, or arrange for the provision of, hospital 40236
services to medicaid recipients, both of the following apply: 40237

(A) If a hospital provides services to a medicaid recipient 40238
who is enrolled in the managed care organization but the hospital 40239
is not under contract with the organization, the organization 40240
shall reimburse the hospital for the services at a rate that is 40241
the lesser of ninety-five per cent of the rate the hospital is 40242
reimbursed by the department for medicaid recipients who are not 40243
enrolled in a managed care organization or the amount the hospital 40244
charges the organization for the services. As a condition of 40245
participation in the medicaid program, the hospital shall not 40246
refuse to provide services to medicaid recipients who are enrolled 40247
in a managed care organization and shall accept the reimbursement 40248
rate established under this division as payment in full for 40249
services provided to those medicaid recipients. This division does 40250
not restrict the managed care organization's ability to enter into 40251
a contract with a hospital under which the hospital is reimbursed 40252
at a rate different from the rate established under this division. 40253

(B) For the purpose of determining the amount the department 40254
pays hospitals under section 5112.08 of the Revised Code and the 40255
amount of disproportionate share hospital payments paid by the 40256
medicare program established under Title XVIII of the "Social 40257
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, 40258
the managed care organization shall keep detailed records for each 40259
hospital with which it contracts about the cost to the hospital of 40260
providing the care, payments made by the organization to the 40261
hospital for the care, utilization of hospital services by 40262
medicaid recipients enrolled in the organization, and other 40263
utilization data required by the department. 40264

Sec. 5111.176. Not later than October 1, 2003, the director 40265

of job and family services shall establish a task force to assist 40266
in resolving issues that arise as a result of the reimbursement 40267
rates established by division (A) of section 5111.175 of the 40268
Revised Code. The members of the task force shall be appointed by 40269
the director and shall include the following: 40270

(A) Representatives of hospitals that provide services to 40271
medicaid recipients; 40272

(B) A representative of each managed care organization under 40273
contract with the department of job and family services pursuant 40274
to section 5111.17 of the Revised Code. 40275

Sec. 5111.20. As used in sections 5111.20 to ~~5111.32~~ 5111.34 40276
of the Revised Code: 40277

~~(A) "Allowable costs" are those costs determined by the~~ 40278
~~department of job and family services to be reasonable and do not~~ 40279
~~include fines paid under sections 5111.35 to 5111.61 and section~~ 40280
~~5111.99 of the Revised Code.~~ 40281

~~(B) "Capital costs" means costs of ownership and nonextensive~~ 40282
~~renovation.~~ 40283

~~(1) "Cost of ownership" means the actual expense incurred for~~ 40284
~~all of the following:~~ 40285

~~(a) Depreciation and interest on any capital assets that cost~~ 40286
~~five hundred dollars or more per item, including the following:~~ 40287

~~(i) Buildings;~~ 40288

~~(ii) Building improvements that are not approved as~~ 40289
~~nonextensive renovations under section 5111.25 or 5111.251 of the~~ 40290
~~Revised Code;~~ 40291

~~(iii) Equipment;~~ 40292

~~(iv) Extensive renovations;~~ 40293

~~(v) Transportation equipment.~~ 40294

(b) Amortization and interest on land improvements and	40295
leasehold improvements;	40296
(c) Amortization of financing costs;	40297
(d) Except as provided in division (I) of this section, lease	40298
and rent of land, building, and equipment.	40299
The costs of capital assets of less than five hundred dollars	40300
per item may be considered costs of ownership in accordance with a	40301
provider's practice.	40302
(2) "Costs of nonextensive renovation" means the actual	40303
expense incurred for depreciation or amortization and interest on	40304
renovations that are not extensive renovations.	40305
(C) "Capital lease" and "operating lease" shall be construed	40306
in accordance with generally accepted accounting principles.	40307
(D) "Case mix score" means the measure determined under	40308
section 5111.231 of the Revised Code of the relative direct care	40309
resources needed to provide care and habilitation to a resident of	40310
a nursing facility or intermediate care facility for the mentally	40311
retarded.	40312
(E) "Date of licensure," for a facility originally licensed	40313
as a nursing home under Chapter 3721. of the Revised Code, means	40314
the date specific beds were originally licensed as nursing home	40315
beds under that chapter, regardless of whether they were	40316
subsequently licensed as residential facility beds under section	40317
5123.19 of the Revised Code. For a facility originally licensed as	40318
a residential facility under section 5123.19 of the Revised Code,	40319
"date of licensure" means the date specific beds were originally	40320
licensed as residential facility beds under that section.	40321
(1) If nursing home beds licensed under Chapter 3721. of the	40322
Revised Code or residential facility beds licensed under section	40323
5123.19 of the Revised Code were not required by law to be	40324

~~licensed when they were originally used to provide nursing home or 40325
residential facility services, "date of licensure" means the date 40326
the beds first were used to provide nursing home or residential 40327
facility services, regardless of the date the present provider 40328
obtained licensure. 40329~~

~~(2) If a facility adds nursing home beds or residential 40330
facility beds or extensively renovates all or part of the facility 40331
after its original date of licensure, it will have a different 40332
date of licensure for the additional beds or extensively renovated 40333
portion of the facility, unless the beds are added in a space that 40334
was constructed at the same time as the previously licensed beds 40335
but was not licensed under Chapter 3721. or section 5123.19 of the 40336
Revised Code at that time. 40337~~

~~(F) "Desk reviewed" means that costs as reported on a cost 40338
report submitted under section 5111.26 of the Revised Code have 40339
been subjected to a desk review under division (A) of section 40340
5111.27 of the Revised Code and preliminarily determined to be 40341
allowable costs. 40342~~

~~(G) "Direct care costs" means all of the following: 40343~~

~~(1)(a) Costs for registered nurses, licensed practical 40344
nurses, and nurse aides employed by the facility; 40345~~

~~(b) Costs for direct care staff, administrative nursing 40346
staff, medical directors, social services staff, activities staff, 40347
psychologists and psychology assistants, social workers and 40348
counselors, habilitation staff, qualified mental retardation 40349
professionals, program directors, respiratory therapists, 40350
habilitation supervisors, and except as provided in division 40351
(G)(2) of this section, other persons holding degrees qualifying 40352
them to provide therapy; 40353~~

~~(c) Costs of purchased nursing services; 40354~~

~~(d) Costs of quality assurance; 40355~~

(e) Costs of training and staff development, employee	40356
benefits, payroll taxes, and workers' compensation premiums or	40357
costs for self insurance claims and related costs as specified in	40358
rules adopted by the director of job and family services in	40359
accordance with Chapter 119. of the Revised Code, for personnel	40360
listed in divisions (G)(1)(a), (b), and (d) of this section;	40361
(f) Costs of consulting and management fees related to direct	40362
care;	40363
(g) Allocated direct care home office costs.	40364
(2) In addition to the costs specified in division (G)(1) of	40365
this section, for intermediate care facilities for the mentally	40366
retarded only, direct care costs include both of the following:	40367
(a) Costs for physical therapists and physical therapy	40368
assistants, occupational therapists and occupational therapy	40369
assistants, speech therapists, and audiologists;	40370
(b) Costs of training and staff development, employee	40371
benefits, payroll taxes, and workers' compensation premiums or	40372
costs for self insurance claims and related costs as specified in	40373
rules adopted by the director of job and family services in	40374
accordance with Chapter 119. of the Revised Code, for personnel	40375
listed in division (G)(2)(a) of this section.	40376
(3) Costs of other direct care resources that are specified	40377
as direct care costs in rules adopted by the director of job and	40378
family services in accordance with Chapter 119. of the Revised	40379
Code.	40380
(H) <u>"Change of operator" means an entering operator becoming</u>	40381
<u>the operator of a nursing facility or intermediate care facility</u>	40382
<u>for the mentally retarded in the place of the exiting operator.</u>	40383
(1) <u>Actions that constitute a change of operator include, but</u>	40384
<u>are not limited to, the following:</u>	40385

<u>(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;</u>	40386
	40387
	40388
<u>(b) A transfer of all the exiting operator's ownership interest in the operation of the facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the facility is also transferred;</u>	40389
	40390
	40391
	40392
	40393
<u>(c) A lease of the facility to the entering operator or the exiting operator's termination of the lease;</u>	40394
	40395
<u>(d) If the exiting operator is a partnership, dissolution of the partnership;</u>	40396
	40397
<u>(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:</u>	40398
	40399
<u>(i) The change in composition does not cause the partnership's dissolution under state law.</u>	40400
	40401
<u>(ii) The partners agree that the change in composition does not constitute a change in operator.</u>	40402
	40403
<u>(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation with another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.</u>	40404
	40405
	40406
	40407
<u>(2) The following, alone, do not constitute a change of operator:</u>	40408
	40409
<u>(a) A contract for an entity to manage a nursing facility or intermediate care facility for the mentally retarded as the operator's agent, subject to the operator's approval of daily operating and management decisions;</u>	40410
	40411
	40412
	40413
<u>(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing</u>	40414
	40415

facility or intermediate care facility for the mentally retarded 40416
if an entering operator does not become the operator in place of 40417
an exiting operator; 40418

(c) If the operator is a corporation, a change of one or more 40419
members of the corporation's governing body or transfer of 40420
ownership of one or more shares of the corporation's stock, if the 40421
same corporation continues to be the operator. 40422

(B) "Effective date of a change of operator" means the day 40423
the entering operator becomes the operator of the nursing facility 40424
or intermediate care facility for the mentally retarded. 40425

(C) "Effective date of a facility closure" means the last day 40426
that the last of the residents of the nursing facility or 40427
intermediate care facility for the mentally retarded resides in 40428
the facility. 40429

(D) "Effective date of a voluntary termination" means the day 40430
the intermediate care facility for the mentally retarded ceases to 40431
accept medicaid patients. 40432

(E) "Effective date of a voluntary withdrawal of 40433
participation" means the day the nursing facility ceases to accept 40434
new medicaid patients other than the individuals who reside in the 40435
nursing facility on the day before the effective date of the 40436
voluntary withdrawal of participation. 40437

(F) "Entering operator" means the person or government entity 40438
that will become the operator of a nursing facility or 40439
intermediate care facility for the mentally retarded when a change 40440
of operator occurs. 40441

(G) "Exiting operator" means any of the following: 40442

(1) An operator that will cease to be the operator of a 40443
nursing facility or intermediate care facility for the mentally 40444
retarded on the effective date of a change of operator; 40445

(2) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a facility closure; 40446
40447
40448

(3) An operator of an intermediate care facility for the mentally retarded that is undergoing or has undergone a voluntary termination; 40449
40450
40451

(4) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation. 40452
40453

(H) "Facility closure" means discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility or intermediate care facility for the mentally retarded that results in the relocation of all of the facility's residents. A facility closure occurs regardless of any of the following: 40454
40455
40456
40457
40458
40459

(1) The operator completely or partially replacing the facility by constructing a new facility or transferring the facility's license to another facility; 40460
40461
40462

(2) The facility's residents relocating to another of the operator's facilities; 40463
40464

(3) Any action the department of health takes regarding the facility's certification under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, that may result in the transfer of part of the facility's survey findings to another of the operator's facilities; 40465
40466
40467
40468
40469

(4) Any action the department of health takes regarding the facility's license under Chapter 3721. of the Revised Code; 40470
40471

(5) Any action the department of mental retardation and developmental disabilities takes regarding the facility's license under section 5123.19 of the Revised Code. 40472
40473
40474

(I) "Fiscal year" means the fiscal year of this state, as 40475

specified in section 9.34 of the Revised Code. 40476

~~(I) "Indirect care costs" means all reasonable costs other than direct care costs, other protected costs, or capital costs. "Indirect care costs" includes but is not limited to costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in this division. Notwithstanding division (B)(1) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.~~ 40477
40478
40479
40480
40481
40482
40483
40484
40485
40486
40487
40488
40489
40490
40491
40492
40493
40494
40495
40496
40497
40498
40499
40500

~~(J) "Inpatient days" means all days during which a resident, regardless of payment source, occupies a bed in a nursing facility or intermediate care facility for the mentally retarded that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 49 Stat. 610 (1935), 42 U.S.C.A. 301, as amended. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered~~ 40501
40502
40503
40504
40505
40506
40507

~~inpatient days proportionate to the percentage of the facility's~~ 40508
~~per resident per day rate paid for those days.~~ 40509

~~(K)~~(J) "Intermediate care facility for the mentally retarded" 40510
means an intermediate care facility for the mentally retarded 40511
certified as in compliance with applicable standards for the 40512
medical assistance program by the director of health in accordance 40513
with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 40514
42 U.S.C. 1396, as amended. 40515

~~(L) "Maintenance and repair expenses" means, except as~~ 40516
~~provided in division (X)(2) of this section, expenditures that are~~ 40517
~~necessary and proper to maintain an asset in a normally efficient~~ 40518
~~working condition and that do not extend the useful life of the~~ 40519
~~asset two years or more. "Maintenance and repair expenses"~~ 40520
~~includes but is not limited to the cost of ordinary repairs such~~ 40521
~~as painting and wallpapering.~~ 40522

~~(M)~~(K) "Nursing facility" means a facility, or a distinct 40523
part of a facility, that is certified as a nursing facility by the 40524
director of health in accordance with Title XIX of the "Social 40525
Security Act," and is not an intermediate care facility for the 40526
mentally retarded. "Nursing facility" includes a facility, or a 40527
distinct part of a facility, that is certified as a nursing 40528
facility by the director of health in accordance with Title XIX of 40529
the "Social Security Act," and is certified as a skilled nursing 40530
facility by the director in accordance with Title XVIII of the 40531
"Social Security Act." 40532

~~(N) "Other protected costs" means costs for medical supplies;~~ 40533
~~real estate, franchise, and property taxes; natural gas, fuel oil,~~ 40534
~~water, electricity, sewage, and refuse and hazardous medical waste~~ 40535
~~collection; allocated other protected home office costs; and any~~ 40536
~~additional costs defined as other protected costs in rules adopted~~ 40537
~~by the director of job and family services in accordance with~~ 40538
~~Chapter 119. of the Revised Code.~~ 40539

~~(O)(L)~~ "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing facility or intermediate care facility for the mentally retarded. 40540
40541
40542
40543

(M)(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding a nursing facility or intermediate care facility for the mentally retarded: 40544
40545
40546
40547
40548

(a) The land on which the facility is located; 40549

(b) The structure in which the facility is located; 40550

(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the facility is located; 40551
40552
40553

(d) Any lease or sublease of the land or structure on or in which the facility is located. 40554
40555

(2) "Owner" does not mean a holder of a debenture or bond related to the nursing facility or intermediate care facility for the mentally retarded and purchased at public issue or a regulated lender that has made a loan related to the facility unless the holder or lender operates the facility directly or through a subsidiary. 40556
40557
40558
40559
40560
40561

~~(P)~~ "Patient" includes "resident." 40562

~~(Q)~~ Except as provided in divisions (Q)(1) and (2) of this section, "per diem" means a nursing facility's or intermediate care facility for the mentally retarded's actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period. 40563
40564
40565
40566
40567

~~(1)~~ When calculating indirect care costs for the purpose of establishing rates under section 5111.24 or 5111.241 of the 40568
40569

~~Revised Code, "per diem" means a facility's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty five per cent.~~

~~(2) When calculating capital costs for the purpose of establishing rates under section 5111.25 or 5111.251 of the Revised Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety five per cent.~~

~~(R)(N) "Provider" means a person or government entity that operates a nursing facility or intermediate care facility for the mentally retarded under an operator that has entered into a provider agreement.~~

~~(S)(O) "Provider agreement" means a contract between the department of job and family services and the operator of a nursing facility or intermediate care facility for the mentally retarded for the provision of nursing facility services or intermediate care facility services for the mentally retarded under the medical assistance program.~~

~~(T) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility.~~

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

~~provider and from time to time for the same provider.~~ 40601

~~(V) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider.~~ 40602
40603
40604
40605

~~(1) An individual who is a relative of an owner is a related party.~~ 40606
40607

~~(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.~~ 40608
40609
40610
40611
40612
40613
40614
40615
40616

~~(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.~~ 40617
40618
40619

~~(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:~~ 40620
40621
40622

~~(a) The supplier is a separate bona fide organization.~~ 40623

~~(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.~~ 40624
40625
40626
40627

~~(c) The types of goods or services are commonly obtained by other nursing facilities or intermediate care facilities for the mentally retarded from outside organizations and are not a basic~~ 40628
40629
40630

~~element of patient care ordinarily furnished directly to patients
by the facilities.~~ 40631
40632

~~(d) The charge to the provider is in line with the charge for
the goods or services in the open market and no more than the
charge made under comparable circumstances to others by the
supplier.~~ 40633
40634
40635
40636

~~(W) "Relative of owner" means an individual who is related to
an owner of a nursing facility or intermediate care facility for
the mentally retarded by one of the following relationships:~~ 40637
40638
40639

~~(1) Spouse;~~ 40640

~~(2) Natural parent, child, or sibling;~~ 40641

~~(3) Adopted parent, child, or sibling;~~ 40642

~~(4) Step parent, step child, step brother, or step sister;~~ 40643

~~(5) Father in law, mother in law, son in law,
daughter in law, brother in law, or sister in law;~~ 40644
40645

~~(6) Grandparent or grandchild;~~ 40646

~~(7) Foster caregiver, foster child, foster brother, or foster
sister.~~ 40647
40648

~~(X) "Renovation" and "extensive renovation" mean:~~ 40649

~~(1) Any betterment, improvement, or restoration of a nursing
facility or intermediate care facility for the mentally retarded
started before July 1, 1993, that meets the definition of a
renovation or extensive renovation established in rules adopted by
the director of job and family services in effect on December 22,
1992.~~ 40650
40651
40652
40653
40654
40655

~~(2) In the case of betterments, improvements, and
restorations of nursing facilities and intermediate care
facilities for the mentally retarded started on or after July 1,
1993:~~ 40656
40657
40658
40659

~~(a) "Renovation" means the betterment, improvement, or restoration of a nursing facility or intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity.~~

~~(b) "Extensive renovation" means a renovation that costs more than sixty five per cent and no more than eighty five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years.~~

~~For the purposes of division (X)(2) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.~~

~~The department of job and family services may treat a renovation that costs more than eighty five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds.~~

(P) "Voluntary termination" means an operator's voluntary

election to terminate the participation of an intermediate care facility for the mentally retarded in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code. 40691
40692
40693
40694

(O) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by nursing facilities. 40695
40696
40697
40698

Sec. 5111.204. (A) As used in this section and in section 40699
5111.205 of the Revised Code, "representative" means a person 40700
acting on behalf of an applicant for or recipient of medical 40701
assistance. A representative may be a family member, attorney, 40702
hospital social worker, or any other person chosen to act on 40703
behalf of an applicant or recipient. 40704

(B) The department of job and family services may require an 40705
applicant for or recipient of medical assistance who applies or 40706
intends to apply for admission to a nursing facility to undergo an 40707
assessment to determine whether the applicant or recipient needs 40708
the level of care provided by a nursing facility. To the maximum 40709
extent possible, the assessment shall be based on information from 40710
the resident assessment ~~instrument~~ medium or media specified in 40711
rules adopted by the director of job and family services under 40712
~~division (A)~~ of section 5111.231 of the Revised Code. The 40713
assessment shall also be based on criteria and procedures 40714
established in rules adopted under division (H) of this section 40715
and information provided by the person being assessed or the 40716
person's representative. The department of job and family 40717
services, or if the assessment is performed by another agency 40718
designated under section 5101.754 of the Revised Code, the agency, 40719
shall, not later than the time the assessment is required to be 40720
performed under division (C) of this section, give written notice 40721

of its conclusions and the basis for them to the person assessed 40722
and, if the department of job and family services or designated 40723
entity has been informed that the person has a representative, to 40724
the representative. 40725

(C) The department of job and family services or designated 40726
agency, whichever performs the assessment, shall perform a 40727
complete assessment, or, if circumstances provided by rules 40728
adopted under division (H) of this section exist, a partial 40729
assessment, as follows: 40730

(1) In the case of a person applying or intending to apply to 40731
a nursing facility while hospitalized, not later than one of the 40732
following: 40733

(a) One working day after the person or the person's 40734
representative submits an application for admission to the nursing 40735
facility or notifies the department of the person's intention to 40736
apply; 40737

(b) A later date requested by the person or the person's 40738
representative. 40739

(2) In the case of an emergency as determined in accordance 40740
with rules adopted under division (H) of this section, not later 40741
than one calendar day after the person or the person's 40742
representative submits the application or notifies the department 40743
of the person's intention to apply. 40744

(3) In all other cases, not later than one of the following: 40745

(a) Five calendar days after the person or the person's 40746
representative submits the application or notifies the department 40747
of the person's intention to apply; 40748

(b) A later date requested by the person or the person's 40749
representative. 40750

(D) If the department of job and family services or 40751

designated agency conducts a partial assessment under division (C) 40752
of this section, it shall complete the rest of the assessment not 40753
later than one hundred eighty days after the date the person is 40754
admitted to the nursing facility unless the department or 40755
designated agency determines the person should be exempt from the 40756
assessment. 40757

(E) A person is not required to be assessed under this 40758
section if the circumstances specified by rule adopted under 40759
division (H) of this section exist or the department of job and 40760
family services or designated agency determines after a partial 40761
assessment that the person should be exempt from the assessment. 40762

(F) A person assessed under this section or the person's 40763
representative may appeal the conclusions reached by the 40764
department of job and family services or designated agency on the 40765
basis of the assessment. The appeal shall be made in accordance 40766
with section 5101.35 of the Revised Code. The department of job 40767
and family services or designated agency, whichever performs the 40768
assessment, shall provide to the person or the person's 40769
representative and the nursing facility written notice of the 40770
person's right to appeal. The notice shall include an explanation 40771
of the procedure for filing an appeal. 40772

(G) A nursing facility that admits or retains a person 40773
determined pursuant to an assessment required under division (B) 40774
or (C) of this section not to need the level of care provided by 40775
the nursing facility shall not be reimbursed under the medical 40776
assistance program for the person's care. 40777

(H) The director of job and family services shall adopt rules 40778
in accordance with Chapter 119. of the Revised Code to implement 40779
and administer this section. The rules shall include all of the 40780
following: 40781

(1) Criteria and procedures to be used in determining whether 40782

admission to a nursing facility is appropriate for the person 40783
being assessed. The criteria shall include consideration of 40784
whether the person is in need of any of the following: 40785

(a) Nursing or rehabilitation services; 40786

(b) Assistance with two or more of the activities of daily 40787
living; 40788

(c) Continuous supervision to prevent harm to the person as a 40789
result of cognitive impairment. 40790

(2) Information the person being assessed or the person's 40791
representative must provide to the department or designated agency 40792
for purposes of the assessment; 40793

(3) Circumstances under which the department of job and 40794
family services or designated agency may perform a partial 40795
assessment under division (C) of this section; 40796

(4) Circumstances under which a person is not required to be 40797
assessed. 40798

Sec. 5111.206. (A) As used in this section, "nursing 40799
facility" has the same meaning as in section 5111.20 of the 40800
Revised Code. 40801

(B) To the extent funds are available, the director of job 40802
and family services may establish the Ohio access success project 40803
to help medicaid recipients make the transition from residing in a 40804
nursing facility to residing in a community setting. The program 40805
may be established as a separate non-medicaid program or 40806
integrated into a new or existing program of Medicaid home and 40807
community-based services program based on a waiver approved by the 40808
federal centers for medicare and medicaid services. The department 40809
may limit the number of program participants. 40810

To be eligible for benefits under the project, a medicaid 40811
recipient must satisfy all of the following requirements: 40812

- (1) Be a recipient of medicaid-funded nursing facility care, 40813
at the time of applying for the benefits; 40814
- (2) Have resided continuously in a nursing facility since 40815
January 1, 2002; 40816
- (3) Need the level of care provided by nursing facilities; 40817
- (4) For participation in a non-medicaid program, receive 40818
services to remain in the community with a projected cost not 40819
exceeding eighty per cent of the average monthly medicaid cost of 40820
a medicaid recipient in a nursing facility; 40821
- (5) For participation in a program established as part of a 40822
home and community-based services program that is based on a 40823
waiver, meet waiver enrollment criteria. 40824
- (C) If the director establishes the Ohio access success 40825
project, the benefits provided under the project may include 40826
payment of all of the following: 40827
- (1) The first month's rent in a community setting; 40828
- (2) Rental deposits; 40829
- (3) Utility deposits; 40830
- (4) Moving expenses; 40831
- (5) Other expenses not covered by the medicaid program that 40832
facilitate a medicaid recipient's move from a nursing facility to 40833
a community setting. 40834
- (D) If the project is established as a non-medicaid program, 40835
no participant may receive more than two thousand dollars worth of 40836
benefits under the project. 40837
- (E) The director may submit a request to the United States 40838
secretary of health and human services pursuant to section 1915 of 40839
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, 40840
as amended, to create a medicaid home and community-based services 40841

waiver programs to serve individuals who meet the criteria for 40842
participation in the Ohio access success project. The director may 40843
adopt rules under Chapter 119. of the Revised Code for the 40844
administration and operation of the program. 40845

~~Sec. 5111.21. (A) Subject to sections 5111.01, 5111.011,~~ 40846
~~5111.012, and 5111.02 of the Revised Code, the department of job~~ 40847
~~and family services shall pay, as provided in sections 5111.20 to~~ 40848
~~5111.32 of the Revised Code, the reasonable costs of services~~ 40849
~~provided to an eligible medicaid recipient by an eligible nursing~~ 40850
~~facility or intermediate care facility for the mentally retarded.~~ 40851

In order to be eligible for medical assistance payments, an 40852
operator of a nursing facility or intermediate care facility for 40853
the mentally retarded shall do all of the following: 40854

(1) Enter into a provider agreement with the department of 40855
job and family services as provided in section 5111.22, 5111.251, 40856
or 5111.252 of the Revised Code; 40857

(2) Apply for and maintain a valid license to operate if so 40858
required by law; 40859

(3) Comply with all applicable state and federal laws and 40860
rules. 40861

(B) ~~A~~ An operator of a nursing facility that elects to obtain 40862
and maintain eligibility for payments under the medicare medicaid 40863
program established by Title XVIII of the "Social Security Act," 40864
~~49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended may shall~~ qualify 40865
all or part of the facility of the facility's medicaid-certified 40866
beds in the medicare program established by Title XVIII of the 40867
"Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The 40868
director of job and family services may adopt rules in accordance 40869
with Chapter 119. of the Revised Code to establish the time frame 40870
in which a nursing facility must comply with this requirement. 40871

Sec. 5111.211. (A) The department of mental retardation and developmental disabilities is responsible for the nonfederal share of claims submitted for services that are covered by the medicaid program and provided to an eligible medicaid recipient by an intermediate care facility for the mentally retarded if all of the following are the case: 40872
40873
40874
40875
40876
40877

(1) The services are provided on or after July 1, 2003; 40878

(2) The facility receives initial certification by the director of health as an intermediate care facility for the mentally retarded on or after January 1, 2003; 40879
40880
40881

(3) The facility, or a portion of the facility, is licensed by the director of mental retardation and developmental disabilities as a residential facility under section 5123.19 of the Revised Code; 40882
40883
40884
40885

(4) There is a valid provider agreement for the facility. 40886

(B) Each month, the department of job and family services shall invoice the department of mental retardation and developmental disabilities by interagency transfer voucher for the claims for which the department of mental retardation and developmental disabilities is responsible pursuant to this section. 40887
40888
40889
40890
40891
40892

Sec. 5111.22. A provider agreement between the department of job and family services and an operator of a nursing facility or intermediate care facility for the mentally retarded shall contain the following provisions: 40893
40894
40895
40896

(A) The department agrees to+ 40897

~~(1) Make~~ make payments to the nursing facility or intermediate care facility for the mentally retarded for patients eligible for services under the medical assistance program as 40898
40899
40900

provided in ~~sections 5111.20 to 5111.32~~ rules adopted under 40901
section 5111.02 of the Revised Code. No payment shall be made for 40902
the day a recipient is discharged from the facility. 40903

~~(2) Provide copies of rules governing the facility's 40904
participation as a provider in the medical assistance program. 40905
Whenever the director of job and family services files a proposed 40906
rule or proposed rule in revised form under division (D) of 40907
section 111.15 or division (B) of section 119.03 of the Revised 40908
Code, the department shall provide the facility with one copy of 40909
such rule. In the case of a rescission or proposed rescission of a 40910
rule, the department may provide the rule number and title instead 40911
of the rules rescinded or proposed to be rescinded. 40912~~

(B) The ~~provider~~ operator agrees to: 40913

(1) Maintain eligibility as provided in section 5111.21 of 40914
the Revised Code; 40915

(2) Keep records relating to a cost reporting period for the 40916
greater of seven years after the cost report is filed or, if the 40917
department issues ~~an~~ a final fiscal audit report in accordance 40918
with ~~division (B) of~~ rules adopted under section ~~5111.27~~ 5111.32 40919
of the Revised Code, six years after all appeal rights relating to 40920
the final fiscal audit report are exhausted; 40921

(3) File reports as required by the department; 40922

(4) Open all records relating to the costs of its services 40923
for inspection and audit by the department; 40924

(5) Open its premises for inspection by the department, the 40925
department of health, and any other state or local authority 40926
having authority to inspect; 40927

(6) Supply to the department such information as it requires 40928
concerning the facility's services to patients who are or are 40929
eligible to be medicaid recipients; 40930

(7) Comply with section ~~5111.31~~ 5111.222 of the Revised Code. 40931

The provider agreement may contain other provisions that are 40932
consistent with law and considered necessary by the department. 40933

A provider agreement shall be effective for no longer than 40934
twelve months, except that if federal statute or regulations 40935
authorize a longer term, it may be effective for a longer term so 40936
authorized. A provider agreement may be renewed only if the 40937
facility is certified by the department of health for 40938
participation in the medicaid program. 40939

The department of job and family services, in accordance with 40940
rules adopted by the director pursuant to Chapter 119. of the 40941
Revised Code, may elect not to enter into, not to renew, or to 40942
terminate a provider agreement when the department determines that 40943
such an agreement would not be in the best interests of the 40944
recipients or of the state. 40945

Sec. 5111.221. An operator of a nursing facility or 40946
intermediate care facility for the mentally retarded may enter 40947
into provider agreements for more than one nursing facility or 40948
intermediate care facility for the mentally retarded. 40949

Sec. ~~5111.31~~ 5111.222. (A) Every provider agreement with an 40950
operator of a nursing facility or intermediate care facility for 40951
the mentally retarded shall: 40952

(1) Prohibit the facility from failing or refusing to retain 40953
as a patient any person because the person is, becomes, or may, as 40954
a patient in the facility, become a recipient of assistance under 40955
the medical assistance program. For the purposes of this division, 40956
a recipient of medical assistance who is a patient in a facility 40957
shall be considered a patient in the facility during any hospital 40958
stays totaling less than twenty-five days during any twelve-month 40959
period. Recipients who have been identified by the department of 40960

job and family services or its designee as requiring the level of 40961
care of an intermediate care facility for the mentally retarded 40962
shall not be subject to a maximum period of absences during which 40963
they are considered patients if prior authorization of the 40964
department for visits with relatives and friends and participation 40965
in therapeutic programs is obtained under rules adopted under 40966
section 5111.02 of the Revised Code. 40967

(2) Include any part of the facility that meets standards for 40968
certification of compliance with federal and state laws and rules 40969
for participation in the medical assistance program, except that 40970
nursing facilities that, during the period beginning July 1, 1987, 40971
and ending July 1, 1993, added beds licensed as nursing home beds 40972
under Chapter 3721. of the Revised Code are not required to 40973
include those beds under a provider agreement unless otherwise 40974
required by federal law. Once added to the provider agreement, 40975
however, those nursing home beds may not be removed unless the 40976
facility withdraws from the medical assistance program in its 40977
entirety. 40978

(3) Prohibit the facility from discriminating against any 40979
patient on the basis of race, color, sex, creed, or national 40980
origin. 40981

(4) Except as otherwise prohibited under section 5111.55 of 40982
the Revised Code, prohibit the facility from failing or refusing 40983
to accept a patient because the patient is, becomes, or may, as a 40984
patient in the facility, become a recipient of assistance under 40985
the medical assistance program if less than eighty per cent of the 40986
patients in the facility are recipients of medical assistance. 40987

(B) Nothing in this section shall bar any religious or 40988
denominational nursing facility or intermediate care facility for 40989
the mentally retarded that is operated, supervised, or controlled 40990
by a religious organization from giving preference to persons of 40991
the same religion or denomination. Nothing in this section shall 40992

bar any facility from giving preference to persons with whom it 40993
has contracted to provide continuing care. 40994

(C) Nothing in this section shall bar any county home 40995
organized under Chapter 5155. of the Revised Code from admitting 40996
residents exclusively from the county in which the county home is 40997
located. 40998

(D) No operator of a nursing facility or intermediate care 40999
facility for the mentally retarded with which a provider agreement 41000
is in effect shall violate the provider contract obligations 41001
imposed under this section. 41002

(E) Nothing in divisions (A) and (B) of this section shall 41003
bar any nursing facility or intermediate care facility for the 41004
mentally retarded from retaining patients who have resided in the 41005
facility for not less than one year as private pay patients and 41006
who subsequently become recipients of assistance under the 41007
medicaid program, but refusing to accept as a patient any person 41008
who is or may, as a patient in the facility, become a recipient of 41009
assistance under the medicaid program, if all of the following 41010
apply: 41011

(1) The facility does not refuse to retain any patient who 41012
has resided in the facility for not less than one year as a 41013
private pay patient because the patient becomes a recipient of 41014
assistance under the medicaid program, except as necessary to 41015
comply with division (E)(2) of this section; 41016

(2) The number of medicaid recipients retained under this 41017
division does not at any time exceed ten per cent of all the 41018
patients in the facility; 41019

(3) On July 1, 1980, all the patients in the facility were 41020
private pay patients. 41021

Sec. ~~5111.32~~ 5111.223. Any patient has a cause of action 41022

against a nursing facility or intermediate care facility for the 41023
mentally retarded for breach of the provider agreement obligations 41024
or other duties imposed by section ~~5111.31~~ 5111.222 of the Revised 41025
Code. The action may be commenced by the patient, or on ~~his~~ the 41026
patient's behalf by ~~his~~ the patient's sponsor or a residents' 41027
rights advocate, as either is defined under section 3721.10 of the 41028
Revised Code, by the filing of a civil action in the court of 41029
common pleas of the county in which the facility is located, or in 41030
the court of common pleas of Franklin county. 41031

If the court finds that a breach of the provider agreement 41032
obligations imposed by section ~~5111.31~~ 5111.222 of the Revised 41033
Code has occurred, the court may enjoin the facility from engaging 41034
in the practice, order such affirmative relief as may be 41035
necessary, and award to the patient and a person or public agency 41036
that brings an action on behalf of a patient actual damages, 41037
costs, and reasonable attorney's fees. 41038

Sec. ~~5111.30~~ 5111.224. The department of job and family 41039
services shall terminate the provider agreement with an operator 41040
of a nursing facility or intermediate care facility for the 41041
mentally retarded that does not comply with the requirements of 41042
section 3721.071 of the Revised Code for the installation of fire 41043
extinguishing and fire alarm systems. 41044

Sec. ~~5111.26~~ 5111.23. (A)(1)(a) ~~Except as provided in~~ 41045
~~division (A)(1)(b) of this section, each~~ Each nursing facility and 41046
intermediate care facility for the mentally retarded participating 41047
in the medicaid program shall file with the department of job and 41048
family services an annual cost report prepared in accordance with 41049
guidelines established by the department. The report shall cover a 41050
calendar year or the portion of a calendar year during which the 41051
facility participated in the ~~medical assistance~~ medicaid program. 41052
All facilities shall file the reports within ninety days after the 41053

end of the calendar year. The department, for good cause, may 41054
grant a fourteen-day extension of the time for filing cost reports 41055
upon written request from a facility. The director of job and 41056
family services shall prescribe, in rules adopted in accordance 41057
with Chapter 119. of the Revised Code, the cost reporting form and 41058
a uniform chart of accounts for the purpose of cost reporting, and 41059
shall distribute cost reporting forms or computer software for 41060
electronic submission of the cost report to each nursing facility 41061
and intermediate care facility for the mentally retarded at least 41062
sixty days before the facility's reporting date. 41063

~~(b) A facility for which rates are established under section 41064
5111.255 of the Revised Code shall submit a cost report no later 41065
than ninety days after the end of the facility's first three full 41066
calendar months of operation. A facility that opens after the 41067
first day of October in any calendar year is not required to file 41068
a cost report for that calendar year. 41069~~

(2) If a nursing facility or intermediate care facility for 41070
the mentally retarded required to submit cost reports does not 41071
file the reports within the required time periods or within 41072
fourteen days thereafter if an extension is granted under division 41073
(A)(1)(a) of this section, or files an incomplete or inadequate 41074
report, the department shall provide immediate written notice to 41075
the facility that its provider agreement will be terminated in 41076
thirty days unless the facility submits a complete and adequate 41077
cost report within thirty days. During the thirty-day termination 41078
period or any additional time allowed for an appeal of the 41079
proposed termination of a provider agreement, the facility shall 41080
be paid its then current per resident per day rate, minus two 41081
dollars. On July 1, 1994, the department shall adjust the 41082
two-dollar reduction to reflect the rate of inflation during the 41083
preceding twelve months, as shown in the consumer price index for 41084
all items for all urban consumers for the north central region, 41085

published by the United States bureau of labor statistics. On July 41086
1, 1995, and the first day of July of each year thereafter, the 41087
department shall adjust the amount of the reduction in effect 41088
during the previous twelve months to reflect the rate of inflation 41089
during the preceding twelve months, as shown in the same index. 41090

(B) No nursing facility or intermediate care facility for the 41091
mentally retarded shall report fines paid under sections 5111.35 41092
to 5111.62 or section 5111.99 of the Revised Code in any cost 41093
report filed under this section. 41094

(C) The department shall develop an addendum to the cost 41095
report form that a nursing facility or intermediate care facility 41096
for the mentally retarded may use to set forth costs that the 41097
facility believes may be disputed by the department. Any costs 41098
reported by the facility on the addendum may be considered by the 41099
department in setting the facility's rate. ~~If the department does 41100
not consider the costs listed on the addendum in setting the 41101
facility's rate, the facility may seek reconsideration of that 41102
determination under section 5111.29 of the Revised Code. If the 41103
department subsequently includes the costs listed in the addendum 41104
in the facility's rate, the department shall pay the facility 41105
interest at a reasonable rate established in rules adopted in 41106
accordance with Chapter 119. of the Revised Code for the time that 41107
the rate paid excluded the costs.~~ 41108

Sec. 5111.231. ~~(A)(1) The department of job and family 41109
services shall determine case mix scores for nursing facilities 41110
using data for each resident, regardless of payment source, from a 41111
resident assessment instrument specified in rules adopted in 41112
accordance with Chapter 119. of the Revised Code pursuant to 41113
section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 41114
(1935), 42 U.S.C.A. 1396r(e)(5), as amended, and the case mix 41115
values established by the United States department of health and 41116~~

~~human services. Except as modified in rules adopted under division 41117
(A)(1)(c) of this section, the department also shall use the 41118
grouper methodology used on June 30, 1999, by the United States 41119
department of health and human services for prospective payment of 41120
skilled nursing facilities under the medicare program established 41121
by Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 41122
42 U.S.C.A. 301, as amended. The director of job and family 41123
services may adopt rules in accordance with Chapter 119. of the 41124
Revised Code that do any of the following: 41125~~

~~(a) Adjust the case mix values to reflect changes in relative 41126
wage differentials that are specific to this state; 41127~~

~~(b) Express all of the case mix values in numeric terms that 41128
are different from the terms specified by the United States 41129
department of health and human services but that do not alter the 41130
relationship of the case mix values to one another; 41131~~

~~(c) Modify the grouper methodology as follows: 41132~~

~~(i) Establish a different hierarchy for assigning residents 41133
to case mix categories under the methodology; 41134~~

~~(ii) Prohibit the use of the index maximizer element of the 41135
methodology; 41136~~

~~(iii) Incorporate changes to the methodology the United 41137
States department of health and human services makes after June 41138
30, 1999; 41139~~

~~(iv) Make other changes the nursing facility reimbursement 41140
study council established by section 5111.34 of the Revised Code 41141
approves. 41142~~

~~(2) The department shall determine case mix scores for 41143
intermediate care facilities for the mentally retarded using data 41144
for each resident, regardless of payment source, from a resident 41145
assessment instrument and grouper methodology prescribed in rules 41146~~

~~adopted in accordance with Chapter 119. of the Revised Code and
expressed in case mix values established by the department in
those rules.~~ 41147
41148
41149

~~(B) Not later than fifteen days after the end of each
calendar quarter, each nursing facility and intermediate care
facility for the mentally retarded shall submit to the department
the complete assessment data, information from the instrument
medium or media specified in rules adopted under ~~division (A) of~~
this section, for each resident, regardless of payment source, who
was in the facility or on hospital or therapeutic leave from the
facility on the last day of the quarter. Nursing facilities shall
submit the assessment information to the department of health and,
if required by rules adopted under this section, the department of
job and family services. Intermediate care facilities for the
mentally retarded shall submit the assessment information to the
department of job and family services.~~ 41150
41151
41152
41153
41154
41155
41156
41157
41158
41159
41160
41161
41162

~~Except as provided in ~~division (C) of this section, the~~
~~department, after the end of each calendar year and pursuant to~~
~~procedures specified in rules adopted in accordance with Chapter~~
~~119. of the Revised Code, shall calculate an annual average~~
~~case mix score for each nursing facility and intermediate care~~
~~facility for the mentally retarded using the facility's quarterly~~
~~case mix scores for that calendar year.~~ 41163
41164
41165
41166
41167
41168
41169~~

~~(C)(1) If a facility does not timely submit information for a
calendar quarter necessary to calculate its case mix score, or
submits incomplete or inaccurate information for a calendar
quarter, the department may assign the facility a quarterly
average case mix score that is five per cent less than the
facility's quarterly average case mix score for the preceding
calendar quarter. If the facility was subject to an exception
review under ~~division (C) of section 5111.27 of the Revised Code~~
for the preceding calendar quarter, the department may assign a~~ 41170
41171
41172
41173
41174
41175
41176
41177
41178

~~quarterly average case mix score that is five per cent less than 41179
the score determined by the exception review. If the facility was 41180
assigned a quarterly average case mix score for the preceding 41181
quarter, the department may assign a quarterly average case mix 41182
score that is five per cent less than that score assigned for the 41183
preceding quarter. 41184~~

~~The department may use a quarterly average case mix score 41185
assigned under division (C)(1) of this section, instead of a 41186
quarterly average case mix score calculated based on the 41187
facility's submitted information, to calculate the facility's rate 41188
for direct care costs being established under section 5111.23 of 41189
the Revised Code for one or more months, as specified in rules 41190
adopted under division (D) of this section, of the quarter for 41191
which the rate established under section 5111.23 of the Revised 41192
Code will be paid. 41193~~

~~Before taking action under division (C)(1) of this section, 41194
the department shall permit the facility a reasonable period of 41195
time, specified in rules adopted under division (D) of this 41196
section, to correct the information. In the case of an 41197
intermediate care facility for the mentally retarded, the 41198
department of job and family services shall not assign a quarterly 41199
average case-mix score due to late submission of corrections to 41200
the assessment information unless the facility fails to submit 41201
corrected information prior to the eighty-first day after the end 41202
of the calendar quarter to which the information pertains. In the 41203
case of a nursing facility, the department shall not assign a 41204
quarterly average case-mix score due to late submission of 41205
corrections to the assessment information unless the facility 41206
fails to submit corrected information prior to the earlier of the 41207
~~eighty-first~~ forty-sixth day after the end of the ~~ealendar~~ calendar ~~quarter~~ 41208
day the department provides the facility a preliminary facility 41209
score calculation to which the information pertains or the 41210~~

deadline for submission of such corrections established by 41211
regulations adopted by the United States department of health and 41212
human services under Titles XVIII and XIX of the Social Security 41213
Act. The department may provide nursing facilities preliminary 41214
facility score calculations electronically. 41215

~~(2) If a facility is paid a rate calculated using a quarterly 41216
average case mix score assigned under division (C)(1) of this 41217
section for more than six months in a calendar year, the 41218
department may assign the facility a cost per case mix unit that 41219
is five per cent less than the facility's actual or assigned cost 41220
per case mix unit for the preceding calendar year. The department 41221
may use the assigned cost per case mix unit, instead of 41222
calculating the facility's actual cost per case mix unit in 41223
accordance with section 5111.23 of the Revised Code, to establish 41224
the facility's rate for direct care costs for the following fiscal 41225
year.~~ 41226

~~(3) The department shall take action under ~~division (C)(1) or 41227
(2)~~ of this section only in accordance with rules adopted under 41228
~~division (D)~~ of this section. The department shall not take an 41229
action that affects rates for prior payment periods except in 41230
accordance with ~~sections 5111.27 and section~~ 5111.28 of the 41231
Revised Code and rules adopted under section 5111.32 of the 41232
Revised Code. 41233~~

~~(D) The director ~~may~~ shall adopt rules in accordance with 41234
Chapter 119. of the Revised Code that do any of the following:~~ 41235

~~(1)(A) Specify the medium or media through which the 41236
completed assessment information shall be submitted;~~ 41237

~~(2)(B) Specify whether nursing facilities must submit the 41238
assessment information required by this section to the department;~~ 41239

(C) Establish procedures under which the department will 41240
review assessment information for accuracy and notify the facility 41241

of any information that requires correction; 41242

~~(3)(D) Establish procedures for facilities to correct 41243
assessment information. The procedures may prohibit an 41244
intermediate care facility for the mentally retarded from 41245
submitting corrected assessment information, for the purpose of 41246
calculating its annual average case mix score, more than two 41247
calendar quarters after the end of the quarter to which the 41248
information pertains or, if the information pertains to the 41249
quarter ending the thirty first day of December, after the 41250
thirty first day of the following March. The procedures may limit 41251
the content of corrections by nursing facilities in the manner 41252
required by regulations adopted by the United States department of 41253
health and human services under Titles XVIII and XIX of the Social 41254
Security Act and prohibit a nursing facility from submitting 41255
corrected assessment information, for the purpose of calculating 41256
its annual average case mix score, more than the earlier of the 41257
following: 41258~~

~~(a) Two calendar quarters after the end of the quarter to 41259
which the information pertains or, if the information pertains to 41260
the quarter ending the thirty first day of December, after the 41261
thirty first day of the following March; 41262~~

~~(b) The deadline for submission of such corrections 41263
established by regulations adopted by the United States department 41264
of health and human services under Titles XVIII and XIX of the 41265
Social Security Act. 41266~~

~~(4) Specify when and how the department will assign case mix 41267
scores or costs per case mix unit under division (C) of this 41268
section if information necessary to calculate the facility's 41269
average annual or quarterly case mix score is not provided or 41270
corrected in accordance with the procedures established by the 41271
rules. Notwithstanding any other provision of sections 5111.20 to 41272
5111.32 of the Revised Code, the rules also may provide for 41273~~

~~exclusion of case mix scores assigned under division (C) of this section from calculation of the facility's annual average case mix score and the maximum cost per case mix unit for the facility's peer group~~ this section.

(E) Direct the actions the department may take under this section.

Sec. 5111.24. An exiting operator or owner of a nursing facility or intermediate care facility for the mentally retarded participating in the medicaid program shall provide the department of job and family services written notice of a facility closure, voluntary termination, or voluntary withdrawal of participation not less than ninety days before the effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation. The written notice shall include all of the following:

(A) The name of the exiting operator and, if any, the exiting operator's authorized agent;

(B) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the facility closure, voluntary termination, or voluntary withdrawal of participation;

(C) The exiting operator's medicaid provider agreement number;

(D) The effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation;

(E) The signature of the exiting operator's or owner's representative.

Sec. 5111.241. An operator shall comply with section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965),

42 U.S.C. 1396r(c)(2)(F) if the operator's nursing facility 41303
undergoes a voluntary withdrawal of participation. 41304

Sec. 5111.25. (A) An exiting operator or owner and entering 41305
operator shall provide the department of job and family services 41306
written notice of a change of operator if the nursing facility or 41307
intermediate care facility for the mentally retarded participates 41308
in the medicaid program and the entering operator seeks to 41309
continue the facility's participation. The written notice shall be 41310
provided to the department not later than forty-five days before 41311
the effective date of the change of operator if the change of 41312
operator does not entail the relocation of residents. The written 41313
notice shall be provided to the department not later than ninety 41314
days before the effective date of the change of operator if the 41315
change of operator entails the relocation of residents. The 41316
written notice shall include all of the following: 41317

(1) The name of the exiting operator and, if any, the exiting 41318
operator's authorized agent; 41319

(2) The name of the nursing facility or intermediate care 41320
facility for the mentally retarded that is the subject of the 41321
change of operator; 41322

(3) The exiting operator's medicaid provider agreement 41323
number; 41324

(4) The name of the entering operator; 41325

(5) The effective date of the change of operator; 41326

(6) The manner in which the entering operator becomes the 41327
facility's operator, including through sale, lease, merger, or 41328
other action; 41329

(7) If the manner in which the entering operator becomes the 41330
facility's operator involves more than one step, a description of 41331
each step; 41332

(8) Written authorization from the exiting operator or owner and entering operator for the department to process a provider agreement for the entering operator; 41333
41334
41335

(9) The signature of the exiting operator's or owner's representative. 41336
41337

(B) The entering operator shall include a completed application for a provider agreement with the written notice to the department. The entering operator shall attach to the application the following: 41338
41339
41340
41341

(1) If the written notice is provided to the department before the date the exiting operator or owner and entering operator complete the transaction for the change of operator, all the proposed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator; 41342
41343
41344
41345
41346
41347

(2) If the written notice is provided to the department on or after the date the exiting operator or owner and entering operator complete the transaction for the change of operator, copies of all the executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator. 41348
41349
41350
41351
41352
41353

Sec. 5111.251. The department of job and family services may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the effective date of the change of operator if all of the following requirements are met: 41354
41355
41356
41357

(A) The department receives a properly completed written notice required by section 5111.25 of the Revised Code on or before the date required by that section. 41358
41359
41360

(B) The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger 41361
41362

agreements and supporting documents, and sales contracts and 41363
supporting documents relating to the change of operator not later 41364
than ten days after the effective date of the change of operator. 41365

(C) The entering operator is eligible for medicaid payments 41366
as provided in section 5111.21 of the Revised Code. 41367

Sec. 5111.252. (A) The department of job and family services 41368
may enter into a provider agreement with an entering operator that 41369
goes into effect at 12:01 a.m. on the date determined under 41370
division (B) of this section if all of the following are the case: 41371

(1) The department receives a properly completed written 41372
notice required by section 5111.25 of the Revised Code. 41373

(2) The entering operator furnishes to the department copies 41374
of all the fully executed leases, management agreements, merger 41375
agreements and supporting documents, and sales contracts and 41376
supporting documents relating to change of operator. 41377

(3) The requirement of division (A)(1) of this section is met 41378
after the time required by section 5111.25 of the Revised Code, 41379
the requirement of division (A)(2) of this section is met more 41380
than ten days after the effective date of the change of operator, 41381
or both. 41382

(4) The entering operator is eligible for medicaid payments 41383
as provided in section 5111.21 of the Revised Code. 41384

(B) The department shall determine the date a provider 41385
agreement entered into under this section is to go into effect as 41386
follows: 41387

(1) The effective date shall give the department sufficient 41388
time to process the change of operator, assure no duplicate 41389
payments are made, make the withholding required by section 41390
5111.261 of the Revised Code, and withhold the final payment to 41391
the exiting operator until the following: 41392

<u>(a) Ninety days after the exiting operator submits to the</u>	41393
<u>department a properly completed cost report under section 5111.263</u>	41394
<u>of the Revised Code;</u>	41395
<u>(b) One hundred eighty days after the department waives the</u>	41396
<u>cost report requirement of section 5111.263 of the Revised Code.</u>	41397
<u>(2) The effective date shall be not earlier than the later of</u>	41398
<u>the effective date of the change of operator or the date that the</u>	41399
<u>exiting operator or owner and entering operator comply with</u>	41400
<u>section 5111.25 of the Revised Code.</u>	41401
<u>(3) The effective date shall be not later than the following</u>	41402
<u>after the later of the dates specified in division (B)(2) of this</u>	41403
<u>section:</u>	41404
<u>(a) Forty-five days if the change of operator does not entail</u>	41405
<u>the relocation of residents;</u>	41406
<u>(b) Ninety days if the change of operator entails the</u>	41407
<u>relocation of residents.</u>	41408
<u>Sec. 5111.253.</u> <u>A provider agreement that the department of</u>	41409
<u>job and family services enters into with an entering operator</u>	41410
<u>under section 5111.251 or 5111.252 of the Revised Code shall</u>	41411
<u>satisfy all of the following requirements:</u>	41412
<u>(A) Comply with all applicable federal statutes and</u>	41413
<u>regulations;</u>	41414
<u>(B) Comply with section 5111.22 of the Revised Code and all</u>	41415
<u>other applicable state statutes and rules;</u>	41416
<u>(C) Include all the terms and conditions of the exiting</u>	41417
<u>operator's provider agreement, including, but not limited to, all</u>	41418
<u>of the following:</u>	41419
<u>(1) Any plan of correction;</u>	41420
<u>(2) Compliance with health and safety standards;</u>	41421

<u>(3) Compliance with the ownership and financial interest</u>	41422
<u>disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;</u>	41423
<u>(4) Compliance with the civil rights requirements of 45</u>	41424
<u>C.F.R. parts 80, 84, and 90;</u>	41425
<u>(5) Compliance with additional requirements imposed by the</u>	41426
<u>department;</u>	41427
<u>(6) Any sanctions relating to remedies for violation of the</u>	41428
<u>provider agreement, including deficiencies, compliance periods,</u>	41429
<u>accountability periods, monetary penalties, notification for</u>	41430
<u>correction of contract violations, and history of deficiencies.</u>	41431
<u>(D) Require the entering operator to assume the exiting</u>	41432
<u>operator's remaining debt to the department and United States</u>	41433
<u>centers for medicare and medicaid services that the department is</u>	41434
<u>unable to collect from the exiting operator;</u>	41435
<u>(E) Have a different provider agreement number than the</u>	41436
<u>exiting operator's provider agreement.</u>	41437
<u>Sec. 5111.254. In the case of a change of operator, the</u>	41438
<u>exiting operator shall be considered to be the operator of the</u>	41439
<u>nursing facility or intermediate care facility for the mentally</u>	41440
<u>retarded for purposes of the medicaid program, including medicaid</u>	41441
<u>payments, until the effective date of the entering operator's</u>	41442
<u>provider agreement if the provider agreement is entered into under</u>	41443
<u>section 5111.251 or 5111.252 of the Revised Code.</u>	41444
<u>Sec. 5111.255. The department of job and family services may</u>	41445
<u>enter into a provider agreement as provided in section 5111.22 of</u>	41446
<u>the Revised Code, rather than section 5111.251 or 5111.252 of the</u>	41447
<u>Revised Code, with an entering operator if the entering operator</u>	41448
<u>does not agree to a provider agreement that satisfies the</u>	41449
<u>requirements of division (C) or (D) of section 5111.253 of the</u>	41450

Revised Code. The department may not enter into the provider agreement unless the department of health certifies the nursing facility or intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended. The effective date of the provider agreement shall not precede any of the following: 41451
41452
41453
41454
41455
41456

(A) The date that the department of health certifies the facility; 41457
41458

(B) The effective date of the change of operator; 41459

(C) The date the requirement of section 5111.25 of the Revised Code is satisfied. 41460
41461

Sec. 5111.256. The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code governing adjustments to the medicaid reimbursement rate for a nursing facility or intermediate care facility for the mentally retarded that undergoes a change of operator. No rate adjustment resulting from a change of operator shall be effective before the effective date of the entering operator's provider agreement. This is the case regardless of whether the provider agreement is entered into under section 5111.251, section 5111.252, or, pursuant to section 5111.255, section 5111.22 of the Revised Code. 41462
41463
41464
41465
41466
41467
41468
41469
41470
41471

Sec. 5111.257. Neither of the following shall affect the department of job and family services' determination of whether or when a change of operator occurs or the effective date of an entering operator's provider agreement under section 5111.251, section 5111.252, or, pursuant to section 5111.255, section 5111.22 of the Revised Code: 41472
41473
41474
41475
41476
41477

(A) The department of health's determination that a change of operator has or has not occurred for purposes of licensure under Chapter 3721. of the Revised Code; 41478
41479
41480

(B) The department of mental retardation and developmental disabilities' determination that a change of operator has or has not occurred for purposes of licensure under section 5123.19 of the Revised Code. 41481
41482
41483
41484

Sec. 5111.26. (A) On receipt of a written notice under section 5111.24 of the Revised Code of a facility closure, voluntary termination, or voluntary withdrawal of participation or a written notice under section 5111.25 of the Revised Code of a change of operator, the department of job and family services shall determine the amount of any overpayments made under the medicaid program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program. In determining the exiting operator's other actual and potential debts to the department under the medicaid program, the department shall include all of the following that the department determines is applicable: 41485
41486
41487
41488
41489
41490
41491
41492
41493
41494
41495
41496
41497
41498

(1) Refunds due the department under section 5111.27 of the Revised Code; 41499
41500

(2) Interest owed to the department and United States centers for medicare and medicaid services; 41501
41502

(3) Final civil monetary and other penalties for which all right of appeal has been exhausted; 41503
41504

(4) Third-party liabilities; 41505

(5) Money owed the department and United States centers for medicare and medicaid services from any outstanding final fiscal audit, including a final fiscal audit for the last fiscal year or portion thereof in which the exiting operator participated in the medicaid program. 41506
41507
41508
41509
41510

(B) If the department is unable to determine the amount of 41511
the overpayments and other debts for any period before the 41512
effective date of the entering operator's provider agreement or 41513
the effective date of the facility closure, voluntary termination, 41514
or voluntary withdrawal of participation, the department shall 41515
make a reasonable estimate of the overpayments and other debts for 41516
the period. The department shall make the estimate using 41517
information available to the department, including prior 41518
determinations of overpayments and other debts. 41519

Sec. 5111.261. (A) The department of job and family services 41520
shall withhold the greater of the following from payment due an 41521
exiting operator under the medicaid program: 41522

(1) The total amount of any overpayments made under the 41523
medicaid program to the exiting operator, including overpayments 41524
the exiting operator disputes, and other actual and potential 41525
debts, including any unpaid penalties, the exiting operator owes 41526
or may owe to the department and United States centers for 41527
medicare and medicaid services under the medicaid program; 41528

(2) An amount equal to the average amount of monthly payments 41529
to the exiting operator under the medicaid program for the 41530
twelve-month period immediately preceding the month that includes 41531
the last day the exiting operator's provider agreement is in 41532
effect or, in the case of a voluntary withdrawal of participation, 41533
the effective date of the voluntary withdrawal of participation. 41534

(B) The department may transfer the amount withheld under 41535
division (A) of this section to an escrow account with a bank, 41536
trust company, or savings and loan association. 41537

(C) If payment due an exiting operator under the medicaid 41538
program is less than the amount the department is required to 41539
withhold under division (A) of this section, the department shall 41540

require that the exiting operator provide the difference in the 41541
form of a security. 41542

(D) The department shall release to the exiting operator the 41543
actual amount withheld under division (A) of this section if the 41544
department allows the exiting operator to provide the department a 41545
security in the amount the department is required to withhold 41546
under division (A) of this section, less any of that amount 41547
provided to the department in the form of a security under 41548
division (C) of this section. 41549

(E) Security provided to the department under division (C) or 41550
(D) of this section shall be in either or both of the following 41551
forms: 41552

(1) In the case of a change of operator, the entering 41553
operator's nontransferable, unconditional, written agreement to 41554
pay the department any debt the exiting operator owes the 41555
department under the medicaid program; 41556

(2) In the case of a change of operator, facility closure, 41557
voluntary termination, or voluntary withdrawal of participation, a 41558
form of collateral or security acceptable to the department that 41559
satisfies both of the following conditions: 41560

(a) Is at least equal to the amount the department is 41561
required to withhold under division (A) of this section, less any 41562
amounts the department has received through actual withholding or 41563
one or more other forms of security under this division; 41564

(b) Is payable to the department if the exiting operator 41565
fails to pay any debt owed the department under the medicaid 41566
program within fifteen days of receiving the department's written 41567
demand for payment of the debt. 41568

Sec. 5111.262. An entering operator that provides the 41569
department of job and family services a security in the form 41570

provided by division (E)(1) of section 5111.261 of the Revised Code shall also provide the department a list of the entering operator's assets and liabilities. The department shall determine whether the assets are sufficient for the purpose of the security. 41571
41572
41573
41574

Sec. 5111.263. (A) Except as provided in division (B) of this section, an exiting operator shall file with the department of job and family services a cost report not later than ninety days after the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation. The cost report shall cover the period that begins with the day after the last day covered by the operator's most recent previous cost report required by section 5111.23 of the Revised Code and ends on the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation. The cost report shall include, as applicable, all of the following: 41575
41576
41577
41578
41579
41580
41581
41582
41583
41584
41585
41586
41587
41588

(1) The sale price of the nursing facility or intermediate care facility for the mentally retarded; 41589
41590

(2) A final depreciation schedule that shows which assets are transferred to the buyer and which assets are not transferred to the buyer; 41591
41592
41593

(3) Any other information the department requires. 41594

(B) The department, at its sole discretion, may waive the requirement that an exiting operator file a cost report in accordance with division (A) of this section. 41595
41596
41597

Sec. 5111.264. If an exiting operator required by section 5111.263 of the Revised Code to file a cost report with the department of job and family services fails to file the cost 41598
41599
41600

report in accordance with that section, all payments under the 41601
medicaid program for the period the cost report is required to 41602
cover are deemed overpayments until the date the department 41603
receives the properly completed cost report. The department may 41604
impose on the exiting operator a penalty of one hundred dollars 41605
for each calendar day the properly completed cost report is late. 41606

Sec. 5111.265. The department of job and family services may 41607
not provide an exiting operator final payment under the medicaid 41608
program until the department receives all properly completed cost 41609
reports the exiting operator is required to file under sections 41610
5111.23 and 5111.263 of the Revised Code. 41611

Sec. 5111.266. The department of job and family services 41612
shall determine the actual amount of debt an exiting operator owes 41613
the department under the medicaid program by completing all final 41614
fiscal audits not already completed and performing all other 41615
appropriate actions the department determines to be necessary. The 41616
department shall issue a report on this matter not later than 41617
ninety days after the date the exiting operator files the properly 41618
completed cost report required by section 5111.263 of the Revised 41619
Code with the department or, if the department waives the cost 41620
report requirement for the exiting operator, one hundred eighty 41621
days after the date the department waives the cost report 41622
requirement. The report shall include the department's findings 41623
and the amount of debt the department determines the exiting 41624
operator owes the department and United States centers for 41625
medicare and medicaid services under the medicaid program. Only 41626
the parts of the report that are subject to an adjudication as 41627
specified in section 5111.31 of the Revised Code are subject to an 41628
adjudication conducted in accordance with Chapter 119. of the 41629
Revised Code. 41630

Sec. 5111.267. The department of job and family services 41631
shall release the actual amount withheld under division (A) of 41632
section 5111.261 of the Revised Code, and any security provided to 41633
the department under that section, less any amount the exiting 41634
operator owes the department and United States centers for 41635
medicare and medicaid services under the medicaid program, as 41636
follows: 41637

(A) Ninety-one days after the date the exiting operator files 41638
a properly completed cost report required by section 5111.263 of 41639
the Revised Code unless the department issues the report required 41640
by section 5111.266 of the Revised Code not later than ninety days 41641
after the date the exiting operator files the properly completed 41642
cost report; 41643

(B) Not later than fifteen days after the exiting operator 41644
agrees to a final fiscal audit resulting from the report required 41645
by section 5111.266 of the Revised Code if the department issues 41646
the report not later than ninety days after the date the exiting 41647
operator files a properly completed cost report required by 41648
section 5111.263 of the Revised Code; 41649

(C) One hundred eighty-one days after the date the department 41650
waives the cost report requirement of section 5111.263 of the 41651
Revised Code unless the department issues the report required by 41652
section 5111.266 of the Revised Code not later than one hundred 41653
eighty days after the date the department waives the cost report 41654
requirement; 41655

(D) Not later than fifteen days after the exiting operator 41656
agrees to a final fiscal audit resulting from the report required 41657
by section 5111.266 of the Revised Code if the department issues 41658
the report not later than one hundred eighty days after the date 41659
the department waives the cost report requirement of section 41660
5111.263 of the Revised Code. 41661

Sec. 5111.268. If the actual amount the department of job and family services withholds from an exiting operator under division (A) of section 5111.261 of the Revised Code, and any security provided to the department under that section, is inadequate to pay the exiting operator's debt to the department and United States centers for medicare and medicaid services under the medicaid program or the department is required to release the withholdings and security under section 5111.267 of the Revised Code before the department is paid the exiting operator's debt, the department shall collect the debt as follows:

(A) From the exiting operator;

(B) From the entering operator if the department is unable to collect the entire debt from the exiting operator and the entering operator entered into a provider agreement under section 5111.251 or 5111.252 of the Revised Code. The department may collect the remaining debt by withholding the amount due from payments to the entering operator under the medicaid program. The department may enter into an agreement with the entering operator under which the entering operator pays the remaining debt, with applicable interest, in installments from withholdings from the entering operator's payments under the medicaid program.

Sec. 5111.269. The department of job and family services, at its sole discretion, may release the amount withheld under division (A) of section 5111.261 of the Revised Code, and any security provided to the department under that section, if the exiting operator submits to the department written notice of a postponement of a change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation and the transactions leading to the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation

are postponed for at least thirty days but less than ninety days 41692
after the date originally proposed for the change of operator, 41693
facility closure, voluntary termination, or voluntary withdrawal 41694
of participation as reported in the written notice required by 41695
section 5111.24 or 5111.25 of the Revised Code. The department 41696
shall release the amount withheld and security if the exiting 41697
operator submits to the department written notice of a 41698
cancellation or postponement of a change of operator, facility 41699
closure, voluntary termination, or voluntary withdrawal of 41700
participation and the transactions leading to the change of 41701
operator, facility closure, voluntary termination, or voluntary 41702
withdrawal of participation are canceled, or postponed for more 41703
than ninety days after the date originally proposed for the change 41704
of operator, facility closure, voluntary termination, or voluntary 41705
withdrawal of participation as reported in the written notice 41706
required by section 5111.24 or 5111.25 of the Revised Code. 41707

After the department receives a written notice regarding a 41708
cancellation or postponement of a facility closure, voluntary 41709
termination, or voluntary withdrawal of participation, the exiting 41710
operator or owner shall provide new written notice to the 41711
department under section 5111.24 of the Revised Code regarding any 41712
transactions leading to a facility closure, voluntary termination, 41713
or voluntary withdrawal of participation at a future time. After 41714
the department receives a written notice regarding a cancellation 41715
or postponement of a change of operator, the exiting operator or 41716
owner and entering operator shall provide new written notice to 41717
the department under section 5111.25 of the Revised Code regarding 41718
any transactions leading to a change of operator at a future time. 41719

Sec. 5111.2610. The director of job and family services may 41720
adopt rules in accordance with Chapter 119. of the Revised Code to 41721
implement sections 5111.24 to 5111.269 of the Revised Code, 41722
including rules applicable to an exiting operator that provides 41723

written notification under section 5111.24 of the Revised Code of 41724
a voluntary withdrawal of participation. Rules adopted under this 41725
section shall comply with section 1919(c)(2)(F) of the "Social 41726
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), 41727
regarding restrictions on transfers or discharges of nursing 41728
facility residents in the case of a voluntary withdrawal of 41729
participation. The rules may prescribe a medicaid reimbursement 41730
methodology and other procedures that are applicable after the 41731
effective date of a voluntary withdrawal of participation that 41732
differ from the reimbursement methodology and other procedures 41733
that would otherwise apply. 41734

~~Sec. 5111.25 5111.27. (A) The department of job and family~~ 41735
~~services shall pay each eligible nursing facility a per resident~~ 41736
~~per day rate for its reasonable capital costs established~~ 41737
~~prospectively each fiscal year for each facility. Except as~~ 41738
~~otherwise provided in sections 5111.20 to 5111.32 of the Revised~~ 41739
~~Code, the rate shall be based on the facility's capital costs for~~ 41740
~~the calendar year preceding the fiscal year in which the rate will~~ 41741
~~be paid. The rate shall equal the sum of divisions (A)(1) to (3)~~ 41742
~~of this section:~~ 41743

~~(1) The lesser of the following:~~ 41744

~~(a) Eighty eight and sixty five one hundredths per cent of~~ 41745
~~the facility's desk reviewed, actual, allowable, per diem cost of~~ 41746
~~ownership and eighty five per cent of the facility's actual,~~ 41747
~~allowable, per diem cost of nonextensive renovation determined~~ 41748
~~under division (F) of this section:~~ 41749

~~(b) Eighty eight and sixty five one hundredths per cent of~~ 41750
~~the following limitation:~~ 41751

~~(i) For the fiscal year beginning July 1, 1993, sixteen~~ 41752
~~dollars per resident day:~~ 41753

~~(ii) For the fiscal year beginning July 1, 1994, sixteen dollars per resident day, adjusted to reflect the rate of inflation for the twelve month period beginning July 1, 1992, and ending June 30, 1993, using the consumer price index for shelter costs for all urban consumers for the north central region, published by the United States bureau of labor statistics;~~

~~(iii) For subsequent fiscal years, the limitation in effect during the previous fiscal year, adjusted to reflect the rate of inflation for the twelve month period beginning on the first day of July for the calendar year preceding the calendar year that precedes the fiscal year and ending on the following thirtieth day of June, using the consumer price index for shelter costs for all urban consumers for the north central region, published by the United States bureau of labor statistics.~~

~~(2) Any efficiency incentive determined under division (D) of this section;~~

~~(3) Any amounts for return on equity determined under division (H) of this section.~~

~~Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight line method over a period designated in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department. Any rules adopted under this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in cost of ownership or renovation unless that part of the payment under sections 5111.20 to 5111.32 of the~~

~~Revised Code is used to reimburse the government agency.~~ 41785

~~(B) The capital cost basis of nursing facility assets shall be determined in the following manner:~~ 41786
41787

~~(1) For purposes of calculating the rate to be paid for the fiscal year beginning July 1, 1993, for facilities with dates of licensure on or before June 30, 1993, the capital cost basis shall be equal to the following:~~ 41788
41789
41790
41791

~~(a) For facilities that have not had a change of ownership during the period beginning January 1, 1993, and ending June 30, 1993, the desk reviewed, actual, allowable capital cost basis that is listed on the facility's cost report for the cost reporting period ending December 31, 1992, plus the actual, allowable capital cost basis of any assets constructed or acquired after December 31, 1992, but before July 1, 1993, if the aggregate capital costs of those assets would increase the facility's rate for capital costs by twenty or more cents per resident per day.~~ 41792
41793
41794
41795
41796
41797
41798
41799
41800

~~(b) For facilities that have a date of licensure or had a change of ownership during the period beginning January 1, 1993, and ending June 30, 1993, the actual, allowable capital cost basis of the person or government entity that owns the facility on June 30, 1993.~~ 41801
41802
41803
41804
41805

~~Capital cost basis shall be calculated as provided in division (B)(1) of this section subject to approval by the United States health care financing administration of any necessary amendment to the state plan for providing medical assistance.~~ 41806
41807
41808
41809

~~The department shall include the actual, allowable capital cost basis of assets constructed or acquired during the period beginning January 1, 1993, and ending June 30, 1993, in the calculation for the facility's rate effective July 1, 1993, if the aggregate capital costs of the assets would increase the facility's rate by twenty or more cents per resident per day and~~ 41810
41811
41812
41813
41814
41815

~~the facility provides the department with sufficient documentation 41816
of the costs before June 1, 1993. If the facility provides the 41817
documentation after that date, the department shall adjust the 41818
facility's rate to reflect the costs of the assets one month after 41819
the first day of the month after the department receives the 41820
documentation. 41821~~

~~(2) Except as provided in division (B)(4) of this section, 41822
for purposes of calculating the rates to be paid for fiscal years 41823
beginning after June 30, 1994, for facilities with dates of 41824
licensure on or before June 30, 1993, the capital cost basis of 41825
each asset shall be equal to the desk reviewed, actual, allowable, 41826
capital cost basis that is listed on the facility's cost report 41827
for the calendar year preceding the fiscal year during which the 41828
rate will be paid. 41829~~

~~(3) For facilities with dates of licensure after June 30, 41830
1993, the capital cost basis shall be determined in accordance 41831
with the principles of the medicare program established under 41832
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 41833
U.S.C.A. 301, as amended, except as otherwise provided in sections 41834
5111.20 to 5111.32 of the Revised Code. 41835~~

~~(4) Except as provided in division (B)(5) of this section, if 41836
a provider transfers an interest in a facility to another provider 41837
after June 30, 1993, there shall be no increase in the capital 41838
cost basis of the asset if the providers are related parties. If 41839
the providers are not related parties or if they are related 41840
parties and division (B)(5) of this section requires the 41841
adjustment of the capital cost basis under this division, the 41842
basis of the asset shall be adjusted by the lesser of the 41843
following: 41844~~

~~(a) One half of the change in construction costs during the 41845
time that the transferor held the asset, as calculated by the 41846
department of job and family services using the "Dodge building 41847~~

~~cost indexes, northeastern and north central states," published by Marshall and Swift;~~ 41848
41849

~~(b) One half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time that the transferor held the asset.~~ 41850
41851
41852
41853

~~(5) If a provider transfers an interest in a facility to another provider who is a related party, the capital cost basis of the asset shall be adjusted as specified in division (B)(4) of this section for a transfer to a provider that is not a related party if all of the following conditions are met:~~ 41854
41855
41856
41857
41858

~~(a) The related party is a relative of owner;~~ 41859

~~(b) Except as provided in division (B)(5)(c)(ii) of this section, the provider making the transfer retains no ownership interest in the facility;~~ 41860
41861
41862

~~(c) The department of job and family services determines that the transfer is an arm's length transaction pursuant to rules the department shall adopt in accordance with Chapter 119. of the Revised Code no later than December 31, 2000. The rules shall provide that a transfer is an arm's length transaction if all of the following apply:~~ 41863
41864
41865
41866
41867
41868

~~(i) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.~~ 41869
41870
41871
41872
41873
41874

~~(ii) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the~~ 41875
41876
41877
41878

~~department shall treat the facility as if the transfer never
occurred when the department calculates its reimbursement rates
for capital costs.~~

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

~~(d) Except in the case of hardship caused by a catastrophic
event, as determined by the department, or in the case of a
provider making the transfer who is at least sixty five years of
age, not less than twenty years have elapsed since, for the same
facility, the capital cost basis was adjusted most recently under
division (B)(5) of this section or actual, allowable cost of
ownership was determined most recently under division (C)(9) of
this section.~~

~~(C) As used in this division, "lease expense" means lease
payments in the case of an operating lease and depreciation
expense and interest expense in the case of a capital lease. As
used in this division, "new lease" means a lease, to a different
lessee, of a nursing facility that previously was operated under a
lease.~~

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

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

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

~~(2) Subject to the limitation specified in division (A)(1) of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable cost of ownership shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by the lesser of the following amounts:~~

~~(a) One half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~

~~(b) One half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.~~

~~(3) Subject to the limitation specified in division (A)(1) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable cost of ownership shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and before July 1, 1993, actual, allowable cost of ownership shall include the lesser of the annual lease expense or the sum of the following:~~

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

~~(b) The greater of the lessor's actual annual amortization of~~

~~financing costs and interest expense at the inception of the lease 41941
or the imputed interest expense calculated at the inception of the 41942
lease using seventy per cent of the lessor's historical capital 41943
asset cost basis. 41944~~

~~(4) Subject to the limitation specified in division (A)(1) of 41945
this section, for a lease of a facility with a date of licensure 41946
on or after May 27, 1992, that was not initially operated under a 41947
lease and has been in existence for ten years, actual, allowable 41948
cost of ownership shall include the lesser of the annual lease 41949
expense or the annual depreciation expense and imputed interest 41950
expense that would be calculated at the inception of the lease 41951
using the entire historical capital asset cost basis of the 41952
lessor, adjusted by the lesser of the following: 41953~~

~~(a) One half of the change in construction costs during the 41954
time the lessor held each asset until the beginning of the lease, 41955
as calculated by the department using the "Dodge building cost 41956
indexes, northeastern and north central states," published by 41957
Marshall and Swift; 41958~~

~~(b) One half of the change in the consumer price index for 41959
all items for all urban consumers, as published by the United 41960
States bureau of labor statistics, during the time the lessor held 41961
each asset until the beginning of the lease. 41962~~

~~(5) Subject to the limitation specified in division (A)(1) of 41963
this section, for a new lease of a facility that was operated 41964
under a lease on May 27, 1992, actual, allowable cost of ownership 41965
shall include the lesser of the annual new lease expense or the 41966
annual old lease payment. If the old lease was in effect for ten 41967
years or longer, the old lease payment from the beginning of the 41968
old lease shall be adjusted by the lesser of the following: 41969~~

~~(a) One half of the change in construction costs from the 41970
beginning of the old lease to the beginning of the new lease, as 41971~~

~~calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~ 41972
41973
41974

~~(b) One half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.~~ 41975
41976
41977
41978

~~(6) Subject to the limitation specified in division (A)(1) of this section, for a new lease of a facility that was not in existence or that was in existence but not operated under a lease on May 27, 1992, actual, allowable cost of ownership shall include the lesser of annual new lease expense or the annual amount calculated for the old lease under division (C)(2), (3), (4), or (6) of this section, as applicable. If the old lease was in effect for ten years or longer, the lessor's historical capital asset cost basis shall be adjusted by the lesser of the following for purposes of calculating the annual amount under division (C)(2), (3), (4), or (6) of this section:~~ 41979
41980
41981
41982
41983
41984
41985
41986
41987
41988
41989

~~(a) One half of the change in construction costs from the beginning of the old lease to the beginning of the new lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~ 41990
41991
41992
41993
41994

~~(b) One half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.~~ 41995
41996
41997
41998

~~In the case of a lease under division (C)(3) of this section of a facility for which a substantial commitment of money was made after December 22, 1992, and before July 1, 1993, the old lease payment shall be adjusted for the purpose of determining the~~ 41999
42000
42001
42002

~~annual amount. 42003~~

~~(7) For any revision of a lease described in division (C)(1), 42004~~
~~(2), (3), (4), (5), or (6) of this section, or for any subsequent 42005~~
~~lease of a facility operated under such a lease, other than 42006~~
~~execution of a new lease, the portion of actual, allowable cost of 42007~~
~~ownership attributable to the lease shall be the same as before 42008~~
~~the revision or subsequent lease. 42009~~

~~(8) Except as provided in division (C)(9) of this section, if 42010~~
~~a provider leases an interest in a facility to another provider 42011~~
~~who is a related party, the related party's actual, allowable cost 42012~~
~~of ownership shall include the lesser of the annual lease expense 42013~~
~~or the reasonable cost to the lessor. 42014~~

~~(9) If a provider leases an interest in a facility to another 42015~~
~~provider who is a related party, regardless of the date of the 42016~~
~~lease, the related party's actual, allowable cost of ownership 42017~~
~~shall include the annual lease expense, subject to the limitations 42018~~
~~specified in divisions (C)(1) to (7) of this section, if all of 42019~~
~~the following conditions are met: 42020~~

~~(a) The related party is a relative of owner; 42021~~

~~(b) If the lessor retains an ownership interest, it is, 42022~~
~~except as provided in division (C)(9)(c)(ii) of this section, in 42023~~
~~only the real property and any improvements on the real property; 42024~~

~~(c) The department of job and family services determines that 42025~~
~~the lease is an arm's length transaction pursuant to rules the 42026~~
~~department shall adopt in accordance with Chapter 119. of the 42027~~
~~Revised Code no later than December 31, 2000. The rules shall 42028~~
~~provide that a lease is an arm's length transaction if all of the 42029~~
~~following apply: 42030~~

~~(i) Once the lease goes into effect, the lessor has no direct 42031~~
~~or indirect interest in the lessee or, except as provided in 42032~~
~~division (C)(9)(b) of this section, the facility itself, including 42033~~

~~interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.~~ 42034
42035

~~(ii) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.~~ 42036
42037
42038
42039
42040
42041

~~(iii) The lease satisfies any other criteria specified in the rules.~~ 42042
42043

~~(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (B)(5) of this section or actual, allowable cost of ownership was determined most recently under division (C)(9) of this section.~~ 42044
42045
42046
42047
42048
42049
42050

~~(10) This division does not apply to leases of specific items of equipment.~~ 42051
42052

~~(D)(1) Subject to division (D)(2) of this section, the department shall pay each nursing facility an efficiency incentive that is equal to fifty per cent of the difference between the following:~~ 42053
42054
42055
42056

~~(a) Eighty eight and sixty five one hundredths per cent of the facility's desk reviewed, actual, allowable, per diem cost of ownership;~~ 42057
42058
42059

~~(b) The applicable amount specified in division (E) of this section.~~ 42060
42061

~~(2) The efficiency incentive paid to a nursing facility shall not exceed the greater of the following:~~ 42062
42063

~~(a) The efficiency incentive the facility was paid during the fiscal year ending June 30, 1994;~~ 42064
42065

~~(b) Three dollars per resident per day, adjusted annually for rates paid beginning July 1, 1994, for the inflation rate for the twelve month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which the efficiency incentive is determined and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.~~ 42066
42067
42068
42069
42070
42071
42072
42073
42074

~~(3) For purposes of calculating the efficiency incentive, depreciation for costs that are paid or reimbursed by any government agency shall be considered as costs of ownership, and renovation costs that are paid under division (F) of this section shall not be considered costs of ownership.~~ 42075
42076
42077
42078
42079

~~(E) The following amounts shall be used to calculate efficiency incentives for nursing facilities under this section:~~ 42080
42081

~~(1) For facilities with dates of licensure prior to January 1, 1958, four dollars and twenty four cents per patient day;~~ 42082
42083

~~(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968;~~ 42084
42085

~~(a) Five dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;~~ 42086
42087
42088

~~(b) Four dollars and twenty four cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.~~ 42089
42090
42091

~~(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976;~~ 42092
42093

(a) Six dollars and twenty four cents per patient day if the	42094
cost of construction was five thousand one hundred fifty dollars	42095
or more per bed;	42096
(b) Five dollars and twenty four cents per patient day if the	42097
cost of construction was less than five thousand one hundred fifty	42098
dollars per bed, but exceeded three thousand five hundred dollars	42099
per bed;	42100
(c) Four dollars and twenty four cents per patient day if the	42101
cost of construction was three thousand five hundred dollars or	42102
less per bed.	42103
(4) For facilities with dates of licensure after December 31,	42104
1975, but prior to January 1, 1979:	42105
(a) Seven dollars and twenty four cents per patient day if	42106
the cost of construction was six thousand eight hundred dollars or	42107
more per bed;	42108
(b) Six dollars and twenty four cents per patient day if the	42109
cost of construction was less than six thousand eight hundred	42110
dollars per bed but exceeded five thousand one hundred fifty	42111
dollars per bed;	42112
(c) Five dollars and twenty four cents per patient day if the	42113
cost of construction was five thousand one hundred fifty dollars	42114
or less per bed, but exceeded three thousand five hundred dollars	42115
per bed;	42116
(d) Four dollars and twenty four cents per patient day if the	42117
cost of construction was three thousand five hundred dollars or	42118
less per bed.	42119
(5) For facilities with dates of licensure after December 31,	42120
1978, but prior to January 1, 1981:	42121
(a) Seven dollars and seventy four cents per patient day if	42122
the cost of construction was seven thousand six hundred	42123

~~twenty five dollars or more per bed;~~ 42124

~~(b) Seven dollars and twenty four cents per patient day if
the cost of construction was less than seven thousand six hundred
twenty five dollars per bed but exceeded six thousand eight
hundred dollars per bed;~~ 42125
42126
42127
42128

~~(c) Six dollars and twenty four cents per patient day if the
cost of construction was six thousand eight hundred dollars or
less per bed but exceeded five thousand one hundred fifty dollars
per bed;~~ 42129
42130
42131
42132

~~(d) Five dollars and twenty four cents per patient day if the
cost of construction was five thousand one hundred fifty dollars
or less but exceeded three thousand five hundred dollars per bed;~~ 42133
42134
42135

~~(e) Four dollars and twenty four cents per patient day if the
cost of construction was three thousand five hundred dollars or
less per bed.~~ 42136
42137
42138

~~(6) For facilities with dates of licensure in 1981 or any
year thereafter prior to December 22, 1992, the following amount:~~ 42139
42140

~~(a) For facilities with construction costs less than seven
thousand six hundred twenty five dollars per bed, the applicable
amounts for the construction costs specified in divisions
(E)(5)(b) to (c) of this section;~~ 42141
42142
42143
42144

~~(b) For facilities with construction costs of seven thousand
six hundred twenty five dollars or more per bed, six dollars per
patient day, provided that for 1981 and annually thereafter prior
to December 22, 1992, department shall do both of the following to
the six dollar amount:~~ 42145
42146
42147
42148
42149

~~(i) Adjust the amount for fluctuations in construction costs
calculated by the department using the "Dodge building cost
indexes, northeastern and north central states," published by
Marshall and Swift, using 1980 as the base year;~~ 42150
42151
42152
42153

~~(ii) Increase the amount, as adjusted for inflation under
division (E)(6)(b)(i) of this section, by one dollar and
seventy four cents.~~ 42154
42155
42156

~~(7) For facilities with dates of licensure on or after
January 1, 1992, seven dollars and ninety seven cents, adjusted
for fluctuations in construction costs between 1991 and 1993 as
calculated by the department using the "Dodge building cost
indexes, northeastern and north central states," published by
Marshall and Swift, and then increased by one dollar and
seventy four cents.~~ 42157
42158
42159
42160
42161
42162
42163

~~For the fiscal year that begins July 1, 1994, each of the
amounts listed in divisions (E)(1) to (7) of this section shall be
increased by twenty five cents. For the fiscal year that begins
July 1, 1995, each of those amounts shall be increased by an
additional twenty five cents. For subsequent fiscal years, each of
those amounts, as increased for the prior fiscal year, shall be
adjusted to reflect the rate of inflation for the twelve month
period beginning on the first day of July of the calendar year
preceding the calendar year that precedes the fiscal year and
ending on the following thirtieth day of June, using the consumer
price index for shelter costs for all urban consumers for the
north central region, as published by the United States bureau of
labor statistics.~~ 42164
42165
42166
42167
42168
42169
42170
42171
42172
42173
42174
42175
42176

~~If the amount established for a nursing facility under this
division is less than the amount that applied to the facility
under division (B) of former section 5111.25 of the Revised Code,
as the former section existed immediately prior to December 22,
1992, the amount used to calculate the efficiency incentive for
the facility under division (D)(2) of this section shall be the
amount that was calculated under division (B) of the former
section.~~ 42177
42178
42179
42180
42181
42182
42183
42184

~~(F) Beginning July 1, 1993, regardless of the facility's date of licensure or the date of the nonextensive renovations, the rate for the costs of nonextensive renovations for nursing facilities shall be eighty five per cent of the desk reviewed, actual, allowable, per diem, nonextensive renovation costs. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made nonextensive renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.~~

~~(1) For a nonextensive renovation made after July 1, 1993, to qualify for payment under this division, both of the following conditions must be met:~~

~~(a) At least five years have elapsed since the date of licensure of the portion of the facility that is proposed to be renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.~~

~~(b) The provider has obtained prior approval from the department of job and family services, and if required the director of health has granted a certificate of need for the renovation under section 3702.52 of the Revised Code. The provider shall submit a plan that describes in detail the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project shall be no more than eighteen months after the renovation begins. The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that specify criteria and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the characterization of the project as a renovation or as an extensive renovation. No provider shall~~

~~increase the scope of a project after it is approved by the 42217
department of job and family services unless the increase in scope 42218
is approved by the department. 42219~~

~~(2) The payment provided for in this division is the only 42220
payment that shall be made for the costs of a nonextensive 42221
renovation. Nonextensive renovation costs shall not be included in 42222
costs of ownership, and a nonextensive renovation shall not affect 42223
the date of licensure for purposes of calculating the efficiency 42224
incentive under divisions (D) and (E) of this section. 42225~~

~~(G) The owner of a nursing facility operating under a 42226
provider agreement shall provide written notice to the department 42227
of job and family services at least forty five days prior to 42228
entering into any contract of sale for the facility or voluntarily 42229
terminating participation in the medical assistance program. After 42230
the date on which a transaction of sale of a nursing facility or 42231
intermediate care facility for the mentally retarded is closed, 42232
the owner shall refund to the department of job and family 42233
services the amount of excess depreciation paid to the facility by 42234
the department for each year the owner has operated the facility 42235
under a provider agreement and prorated according to the number of 42236
medicaid patient days for which the facility has received payment. 42237
If a nursing facility is sold after five or fewer years of 42238
operation under a provider agreement, the refund to the department 42239
shall be equal to the excess depreciation paid to the facility. If 42240
a nursing facility is sold after more than five years but less 42241
than ten years of operation under a provider agreement, the refund 42242
to the department shall equal the excess depreciation paid to the 42243
facility multiplied by twenty per cent, multiplied by the 42244
difference between ten and the number of years that the facility 42245
was operated under a provider agreement. If a nursing facility is 42246
sold after ten or more years of operation under a provider 42247
agreement, the owner shall not refund any excess depreciation to 42248~~

~~the department. The owner of a nursing facility that is sold or 42249
that voluntarily terminates participation in the medical 42250
assistance program also shall refund any other amount that the 42251
department properly finds to be due after ~~the~~ a final fiscal audit 42252
~~conducted under this division~~ the department shall conduct. For 42253
~~the purposes of this division, "depreciation paid to the facility"~~ 42254
~~means the amount paid to the nursing facility for cost of~~ 42255
~~ownership pursuant to this section less any amount paid for~~ 42256
~~interest costs, amortization of financing costs, and lease~~ 42257
~~expenses. For the purposes of this division, "excess depreciation"~~ 42258
~~is the nursing facility's depreciated basis, which is the owner's~~ 42259
~~cost less accumulated depreciation, subtracted from the purchase~~ 42260
~~price net of selling costs but not exceeding the amount of~~ 42261
~~depreciation paid to the facility.~~ 42262~~

~~A cost report shall be filed with the department within 42263
ninety days after the date on which the transaction of sale is 42264
closed or participation is voluntarily terminated. The report 42265
shall show the accumulated depreciation, the sales price, and 42266
other information required by the department. The department shall 42267
provide for a bank, trust company, or savings and loan association 42268
to hold in escrow the amount of the last two monthly payments to a 42269
nursing facility made pursuant to division (A)(1) of section 42270
5111.22 of the Revised Code before a sale or termination of 42271
participation or, if the owner fails, within the time required by 42272
this division, to notify the department before entering into a 42273
contract of sale for the facility, the amount of the first two 42274
monthly payments made to the facility after the department learns 42275
of the contract, regardless of whether a new owner is in 42276
possession of the facility. If the amount the owner will be 42277
required to refund under this section is likely to be less than 42278
the amount of the two monthly payments otherwise put into escrow 42279
under this division, the department shall take one of the 42280
following actions instead of withholding the amount of the two 42281~~

monthly payments: 42282

~~(1) In the case of an owner that owns other facilities that participate in the medical assistance program, obtain a promissory note in an amount sufficient to cover the amount likely to be refunded;~~ 42283
42284
42285
42286

~~(2) In the case of all other owners, withhold the amount of the last monthly payment to the nursing facility or, if the owner fails, within the time required by this division, to notify the department before entering into a contract of sale for the facility, the amount of the first monthly payment made to the facility after the department learns of the contract, regardless of whether a new owner is in possession of the facility.~~ 42287
42288
42289
42290
42291
42292
42293

~~The department shall, within ninety days following the filing of the cost report, audit the cost report and issue an audit report to the owner. The department also may audit any other cost report that the facility has filed during the previous three years. In the audit report, the department shall state its findings and the amount of any money owed to the department by the nursing facility. The findings shall be subject to adjudication conducted in accordance with Chapter 119. of the Revised Code. No later than fifteen days after the owner agrees to a settlement, any funds held in escrow less any amounts due to the department shall be released to the owner and amounts due to the department shall be paid to the department. If the amounts in escrow are less than the amounts due to the department, the balance shall be paid to the department within fifteen days after the owner agrees to a settlement. If the department does not issue its audit report within the ninety day period, the department shall release any money held in escrow to the owner. For the purposes of this section, a transfer of corporate stock, the merger of one corporation into another, or a consolidation does not constitute a sale.~~ 42294
42295
42296
42297
42298
42299
42300
42301
42302
42303
42304
42305
42306
42307
42308
42309
42310
42311
42312
42313

~~If a nursing facility is not sold or its participation is not terminated after notice is provided to the department under this division, the department shall order any payments held in escrow released to the facility upon receiving written notice from the owner that there will be no sale or termination. After written notice is received from a nursing facility that a sale or termination will not take place, the facility shall provide notice to the department at least forty five days prior to entering into any contract of sale or terminating participation at any future time.~~

~~(H) The department shall pay each eligible proprietary nursing facility a return on the facility's net equity computed at the rate of one and one half times the average interest rate on special issues of public debt obligations issued to the federal hospital insurance trust fund for the cost reporting period, except that no facility's return on net equity shall exceed fifty cents per patient day.~~

~~When calculating the rate for return on net equity, the department shall use the greater of the facility's inpatient days during the applicable cost reporting period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety five per cent.~~

~~(I) If a nursing facility would receive a lower rate for capital costs for assets in the facility's possession on July 1, 1993, under this section than it would receive under former section 5111.25 of the Revised Code, as the former section existed immediately prior to December 22, 1992, the facility shall receive for those assets the rate it would have received under the former section for each fiscal year beginning on or after July 1, 1993, until the rate it would receive under this section exceeds the rate it would have received under the former section. Any facility that receives a rate calculated under the former section 5111.25~~

~~of the Revised Code for assets in the facility's possession on 42346
July 1, 1993, also shall receive a rate calculated under this 42347
section for costs of any assets it constructs or acquires after 42348
July 1, 1993. 42349~~

Sec. 5111.28. (A) ~~If a provider properly amends its cost 42350
report under section 5111.27 of the Revised Code and the amended 42351
report shows that the provider received a lower rate under the 42352
original cost report than it was entitled to receive, the 42353
department shall adjust the provider's rate prospectively to 42354
reflect the corrected information. The department shall pay the 42355
adjusted rate beginning two months after the first day of the 42356
month after the provider files the amended cost report. If the 42357
department finds, from an exception review of resident assessment 42358
information conducted after the effective date of the rate for 42359
direct care costs that is based on the assessment information, 42360
that inaccurate assessment information resulted in the provider 42361
receiving a lower rate than it was entitled to receive, the 42362
department prospectively shall adjust the provider's rate 42363
accordingly and shall make payments using the adjusted rate for 42364
the remainder of the calendar quarter for which the assessment 42365
information is used to determine the rate, beginning one month 42366
after the first day of the month after the exception review is 42367
completed. 42368~~

~~(B) If the a provider properly amends its cost report 42369
pursuant to rules adopted under section 5111.27 5111.32 of the 42370
Revised Code, the department of job and family services makes a 42371
finding based on an audit administrative review or final fiscal 42372
audit conducted pursuant to rules adopted under that section, or 42373
the department makes a finding based on an exception review of 42374
resident assessment information conducted pursuant to rules 42375
adopted under that section after the effective date of the rate 42376
for direct care costs that is based on the assessment information, 42377~~

any of which results in a determination that the provider has 42378
received a higher rate for services provided in a fiscal year 42379
specified in division (F) of this section than it was entitled to 42380
receive, the department shall recalculate the provider's rate 42381
using the revised information. The department shall apply the 42382
recalculated rate to the periods when the provider received the 42383
incorrect rate to determine the amount of the overpayment. The 42384
provider shall refund the amount of the overpayment. 42385

In addition to requiring a refund under this division, the 42386
department may charge the provider interest at the applicable rate 42387
specified in this division from the time the overpayment was made. 42388

(1) If the overpayment resulted from costs reported for 42389
calendar year 1993, the interest shall be no greater than one and 42390
one-half times the average bank prime rate. 42391

(2) If the overpayment resulted from costs reported for 42392
subsequent calendar years: 42393

(a) The interest shall be no greater than two times the 42394
average bank prime rate if the overpayment was equal to or less 42395
than one per cent of the total medicaid payments to the provider 42396
for the fiscal year for which the incorrect information was used 42397
to establish a rate. 42398

(b) The interest shall be no greater than two and one-half 42399
times the current average bank prime rate if the overpayment was 42400
greater than one per cent of the total medicaid payments to the 42401
provider for the fiscal year for which the incorrect information 42402
was used to establish a rate. 42403

~~(C)~~(B) The department also may impose the following 42404
penalties: 42405

(1) If a provider does not furnish invoices or other 42406
documentation that the department requests during ~~an~~ a final 42407
fiscal audit regarding a service provided in a fiscal year 42408

specified in division (F) of this section within sixty days after 42409
the request, no more than the greater of one thousand dollars per 42410
audit or twenty-five per cent of the cumulative amount by which 42411
the costs for which documentation was not furnished increased the 42412
total medicaid payments to the provider during the fiscal year for 42413
which the costs were used to establish a rate; 42414

(2) If an ~~owner~~ exiting operator fails to provide a properly 42415
completed notice of ~~sale of the facility or facility closure,~~ 42416
voluntary termination, voluntary withdrawal of participation ~~in~~ 42417
~~the medical assistance program, or change of operator,~~ as required 42418
by section 5111.24 or 5111.25 ~~or 5111.251~~ of the Revised Code, no 42419
more than the current average bank prime rate plus four per cent 42420
of ~~the last~~ an amount equal to two times the average amount of 42421
monthly payments to the exiting operator under the medicaid 42422
program for the twelve-month period immediately preceding the 42423
month that includes the last day the exiting operator's provider 42424
agreement is in effect or, in the case of a voluntary withdrawal 42425
of participation, the effective date of the voluntary withdrawal 42426
of participation. 42427

~~(D)~~(C) If the provider continues to participate in the 42428
~~medical assistance~~ medicaid program, the department shall deduct 42429
any amount that the provider is required to refund under this 42430
section, and the amount of any interest charged or penalty imposed 42431
under this section, from the next available payment from the 42432
department to the provider. The department and the provider may 42433
enter into an agreement under which the amount, together with 42434
interest, is deducted in installments from payments from the 42435
department to the provider. If the provider does not continue to 42436
participate in the medicaid program, the department shall collect 42437
any amount that the provider owes to the department under this 42438
section from the withholding, security, or both that the 42439
department makes or requires under section 5111.261 of the Revised 42440

Code. 42441

~~(E)~~(D) The department shall transmit refunds and penalties to 42442
the treasurer of state for deposit in the general revenue fund. 42443

~~(F)~~(E) For the purpose of this section, the department shall 42444
determine the average bank prime rate using statistical release 42445
H.15, "selected interest rates," a weekly publication of the 42446
federal reserve board, or any successor publication. If 42447
statistical release H.15, or its successor, ceases to contain the 42448
bank prime rate information or ceases to be published, the 42449
department shall request a written statement of the average bank 42450
prime rate from the federal reserve bank of Cleveland or the 42451
federal reserve board. 42452

(F) For the purpose of divisions (A) and (B)(1) of this 42453
section, the applicable fiscal years are the fiscal years 42454
preceding fiscal year 2006 and, to the extent provided for in 42455
rules the director of job and family services may adopt in 42456
accordance with Chapter 119. of the Revised Code, fiscal year 2006 42457
and thereafter. 42458

Sec. ~~5111.33~~ 5111.29. Reimbursement to nursing facilities and 42459
intermediate care facilities for the mentally retarded under 42460
~~sections 5111.20 to 5111.32~~ rules adopted under section 5111.02 of 42461
the Revised Code shall include payments to facilities, at a rate 42462
equal to the percentage of the per resident per day rates that the 42463
department of job and family services has established for the 42464
facility under ~~sections 5111.23 to 5111.29 of the Revised Code~~ 42465
those rules for the fiscal year for which the cost of services is 42466
reimbursed, to reserve a bed for a recipient during a temporary 42467
absence under conditions prescribed by the department, to include 42468
hospitalization for an acute condition, visits with relatives and 42469
friends, and participation in therapeutic programs outside the 42470
facility, when the resident's plan of care provides for such 42471

absence and federal participation in the payments is available. 42472
The maximum period during which payments may be made to reserve a 42473
bed shall not exceed the maximum period specified under federal 42474
regulations, and shall not be more than thirty days during any 42475
calendar year for hospital stays, visits with relatives and 42476
friends, and participation in therapeutic programs. Recipients who 42477
have been identified by the department as requiring the level of 42478
care of an intermediate care facility for the mentally retarded 42479
shall not be subject to a maximum period during which payments may 42480
be made to reserve a bed if prior authorization of the department 42481
is obtained for hospital stays, visits with relatives and friends, 42482
and participation in therapeutic programs. The director of job and 42483
family services shall adopt rules under division (B) of section 42484
5111.02 of the Revised Code establishing conditions under which 42485
prior authorization may be obtained. 42486

Sec. ~~5111.263~~ 5111.30. (A) As used in this section, "covered 42487
therapy services" means physical therapy, occupational therapy, 42488
audiology, and speech therapy services that are provided by 42489
appropriately licensed therapists or therapy assistants and that 42490
are covered for nursing facility residents either by the medicare 42491
program established under Title XVIII of the "Social Security 42492
Act," ~~49 79~~ Stat. ~~620 286~~ (1935 1965), 42 U.S.C.A. ~~301 1395~~, as 42493
amended, or the ~~medical assistance~~ medicaid program as specified 42494
in rules adopted by the director of job and family services in 42495
accordance with Chapter 119. of the Revised Code. 42496

(B) ~~Except as provided in division (C) of this section, the~~ 42497
The costs of therapy are not allowable costs for nursing 42498
facilities for the purpose of determining rates under ~~sections~~ 42499
~~5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251,~~ 42500
~~5111.255, and 5111.257 of the Revised Code~~ the medicaid program. 42501

(C) The department of job and family services shall process 42502

no claims for payment under the ~~medical assistance~~ medicaid 42503
program for covered therapy services rendered to a resident of a 42504
nursing facility other than such claims submitted, in accordance 42505
with this section, by a nursing facility that has a valid provider 42506
agreement with the department. 42507

(D) Nursing facilities that have entered into a provider 42508
agreement may bill the department of job and family services for 42509
covered therapy services it provides to residents of any nursing 42510
facility who are recipients of the ~~medical assistance~~ medicaid 42511
program and not eligible for the medicare program. 42512

(E) The department shall not process any claim for a covered 42513
therapy service provided to a nursing facility resident who is 42514
eligible for the medicare program unless the claim is for a 42515
copayment or deductible or the conditions in division (E)(1) or 42516
(2) of this section apply: 42517

(1) The covered therapy service provided is, under the 42518
federal statutes, regulations, or policies governing the medicare 42519
program, not covered by the medicare program and the service is, 42520
under the provisions of this chapter or the rules adopted under 42521
this chapter, covered by the ~~medical assistance~~ medicaid program. 42522

(2) All of the following apply: 42523

(a) The individual or entity who provided the covered therapy 42524
service was eligible to bill the medicare program for the service. 42525

(b) A complete, accurate, and timely claim was submitted to 42526
the medicare program and the program denied payment for the 42527
service as not medically necessary for the resident. For the 42528
purposes of division (E)(2)(b) of this section, a claim is not 42529
considered to have been denied by the medicare program until 42530
either a denial has been issued following a medicare fair hearing 42531
or six months have elapsed since the request for a fair hearing 42532
was filed. 42533

(c) The facility is required to provide or arrange for the 42534
provision of the service by a licensed therapist or therapy 42535
assistant to be in compliance with federal or state nursing 42536
facility certification requirements for the ~~medical assistance~~ 42537
medicaid program. 42538

(d) The claim for payment for the services under the ~~medical~~ 42539
~~assistance~~ medicaid program is accompanied by documentation that 42540
divisions (E)(2)(b) and (c) of this section apply to the service. 42541

(F) The reimbursement allowed by the department for covered 42542
therapy services provided to nursing facility residents and billed 42543
under division (D) or (E) of this section shall be fifteen per 42544
cent less than the fees it pays for the same services rendered to 42545
hospital outpatients. The director may adopt rules in accordance 42546
with Chapter 119. of the Revised Code establishing comparable fees 42547
for covered therapy services that are not included in its schedule 42548
of fees paid for services rendered to hospital outpatients. 42549

~~(G) A nursing facility's reasonable costs for rehabilitative,~~ 42550
~~restorative, or maintenance therapy services rendered to facility~~ 42551
~~residents by nurses or nurse aides, and the facility's overhead~~ 42552
~~costs to support provision of therapy services provided to nursing~~ 42553
~~facility residents, are allowable costs for the purposes of~~ 42554
~~establishing rates under sections 5111.23, 5111.231, 5111.235,~~ 42555
~~5111.24, 5111.241, 5111.25, 5111.251, 5111.255, and 5111.257 of~~ 42556
~~the Revised Code.~~ 42557

Sec. 5111.29 5111.31. ~~(A) The director of job and family~~ 42558
~~services shall adopt rules in accordance with Chapter 119. of the~~ 42559
~~Revised Code that establish a process under which a nursing~~ 42560
~~facility or intermediate care facility for the mentally retarded,~~ 42561
~~or a group or association of facilities, may seek reconsideration~~ 42562
~~of rates established under sections 5111.23 to 5111.28 of the~~ 42563
~~Revised Code, including a rate for direct care costs recalculated~~ 42564

~~before the effective date of the rate as a result of an exception 42565
review of resident assessment information conducted under section 42566
5111.27 of the Revised Code. 42567~~

~~(1) Except as provided in divisions (A)(2) to (4) of this 42568
section, the only issue that a facility, group, or association may 42569
raise in the rate reconsideration shall be whether the rate was 42570
calculated in accordance with sections 5111.23 to 5111.28 of the 42571
Revised Code and the rules adopted under those sections. The rules 42572
shall permit a facility, group, or association to submit written 42573
arguments or other materials that support its position. The rules 42574
shall specify time frames within which the facility, group, or 42575
association and the department must act. If the department 42576
determines, as a result of the rate reconsideration, that the rate 42577
established for one or more facilities is less than the rate to 42578
which it is entitled, the department shall increase the rate. If 42579
the department has paid the incorrect rate for a period of time, 42580
the department shall pay the facility the difference between the 42581
amount it was paid for that period and the amount it should have 42582
been paid. 42583~~

~~(2) The rules shall provide that during a fiscal year, the 42584
department, by means of the rate reconsideration process, may 42585
increase a facility's rate as calculated under sections 5111.23 to 42586
5111.28 of the Revised Code if the facility demonstrates that its 42587
actual, allowable costs have increased because of extreme 42588
circumstances. A facility may qualify for a rate increase only if 42589
its per diem, actual, allowable costs have increased to a level 42590
that exceeds its total rate, including any efficiency incentive 42591
and return on equity payment. The rules shall specify the 42592
circumstances that would justify a rate increase under division 42593
(A)(2) of this section. In the case of nursing facilities, the 42594
rules shall provide that the extreme circumstances include 42595
increased security costs for an inner city nursing facility and an 42596~~

~~increase in workers' compensation experience rating of greater than five per cent for a facility that has an appropriate claims management program but do not include a change of ownership that results from bankruptcy, foreclosure, or findings of violations of certification requirements by the department of health. In the case of intermediate care facilities for the mentally retarded, the rules shall provide that the extreme circumstances include, but are not limited to, renovations approved under division (D) of section 5111.251 of the Revised Code, an increase in workers' compensation experience rating of greater than five per cent for a facility that has an appropriate claims management program, increased security costs for an inner city facility, and a change of ownership that results from bankruptcy, foreclosure, or findings of violations of certification requirements by the department of health. An increase under division (A)(2) of this section is subject to any rate limitations or maximum rates established by sections 5111.23 to 5111.28 of the Revised Code for specific cost centers. Any rate increase granted under division (A)(2) of this section shall take effect on the first day of the first month after the department receives the request.~~

~~(3) The rules shall provide that the department, through the rate reconsideration process, may increase a facility's rate as calculated under sections 5111.23 to 5111.28 of the Revised Code if the department, in its sole discretion, determines that the rate as calculated under those sections works an extreme hardship on the facility.~~

~~(4) The rules shall provide that when beds certified for the medical assistance program are added to an existing facility, replaced at the same site, or subject to a change of ownership or lease, the department, through the rate reconsideration process, shall increase the facility's rate for capital costs proportionately, as limited by any applicable limitation under~~

~~section 5111.25 or 5111.251 of the Revised Code, to account for 42629
the costs of the beds that are added, replaced, or subject to a 42630
change of ownership or lease. The department shall make this 42631
increase one month after the first day of the month after the 42632
department receives sufficient documentation of the costs. Any 42633
rate increase granted under division (A)(4) of this section after 42634
June 30, 1993, shall remain in effect until the effective date of 42635
a rate calculated under section 5111.25 or 5111.251 of the Revised 42636
Code that includes costs incurred for a full calendar year for the 42637
bed addition, bed replacement, or change of ownership or lease. 42638
The facility shall report double accumulated depreciation in an 42639
amount equal to the depreciation included in the rate adjustment 42640
on its cost report for the first year of operation. During the 42641
term of any loan used to finance a project for which a rate 42642
adjustment is granted under division (A)(4) of this section, if 42643
the facility is operated by the same provider, the facility shall 42644
subtract from the interest costs it reports on its cost report an 42645
amount equal to the difference between the following: 42646~~

~~(a) The actual, allowable interest costs for the loan during 42647
the calendar year for which the costs are being reported; 42648~~

~~(b) The actual, allowable interest costs attributable to the 42649
loan that were used to calculate the rates paid to the facility 42650
during the same calendar year. 42651~~

~~(5) The department's decision at the conclusion of the 42652
reconsideration process shall not be subject to any administrative 42653
proceedings under Chapter 119. or any other provision of the 42654
Revised Code. 42655~~

~~(B) Any audit disallowance All of the following are subject 42656
to an adjudication conducted in accordance with Chapter 119. of 42657
the Revised Code: 42658~~

~~(A) Any adverse finding that the department of job and family 42659~~

services makes ~~as the result of an~~ pursuant to a final fiscal 42660
audit conducted pursuant to rules adopted under section ~~5111.27~~ 42661
5111.32 of the Revised Code, ~~and any;~~ 42662

(B) Any adverse finding that results from an exception review 42663
of resident assessment information conducted pursuant to rules 42664
adopted under ~~that~~ section 5111.32 of the Revised Code after the 42665
effective date of the facility's rate that is based on the 42666
assessment information, ~~and any;~~ 42667

(C) Any penalty the department imposes under ~~division (C) of~~ 42668
section 5111.264 or 5111.28 of the Revised Code ~~shall be subject~~ 42669
~~to an adjudication conducted in accordance with Chapter 119. of~~ 42670
~~the Revised Code.~~ 42671

Sec. 5111.32. The director of job and family services shall 42672
adopt rules in accordance with Chapter 119. of the Revised Code 42673
regarding all of the following: 42674

(A) Administrative reviews; 42675

(B) Final fiscal audits; 42676

(C) Exception reviews; 42677

(D) The collection of overpayments identified in findings 42678
made pursuant to an administrative review, final fiscal audit, or 42679
exception review; 42680

(E) Cost reports. 42681

Sec. 5111.34. (A) There is hereby created the nursing 42682
facility reimbursement study council consisting of the following 42683
~~seventeen~~ eighteen members: 42684

(1) The director of job and family services; 42685

(2) The deputy director of the office of Ohio health plans of 42686
the department of job and family services; 42687

(3) An employee of the governor's office;	42688
(4) The director of health;	42689
(5) The director of aging;	42690
(6) Three members of the house of representatives, not more than two of whom are members of the same political party, appointed by the speaker of the house of representatives;	42691 42692 42693
(7) Three members of the senate, not more than two of whom are members of the same political party, appointed by the president of the senate;	42694 42695 42696
(8) <u>One representative of medicaid recipients residing in nursing facilities, appointed by the governor;</u>	42697 42698
(9) Two representatives of each of the following organizations, appointed by their respective governing bodies:	42699 42700
(a) The Ohio academy of nursing homes;	42701
(b) The association of Ohio philanthropic homes and housing for the aging;	42702 42703
(c) The Ohio health care association.	42704
Initial appointments of members described in divisions (A)(6), (7), and (8) (9) of this section shall be made no later than ninety days after June 6, 2001, except that the initial appointments of the two additional members described in divisions (A)(6) and (7) of this section added by <u>Am. Sub. H.B. 405 of the 124th general assembly shall be made not later than ninety days after the effective date of this amendment March 14, 2002. Initial appointment of the member described in division (A)(8) of this section shall be made not later than ninety days after the effective date of this amendment.</u> Vacancies in any of those appointments shall be filled in the same manner as original appointments. The members described in divisions (A)(6), (7), and (8) , <u>and (9)</u> of this section shall serve at the pleasure of the	42705 42706 42707 42708 42709 42710 42711 42712 42713 42714 42715 42716 42717

official or governing body appointing the member. The members 42718
described in divisions (A)(1), (2), (3), (4), and (5) of this 42719
section shall serve for as long as they hold the position that 42720
qualifies them for membership on the council. The speaker of the 42721
house of representatives and the president of the senate jointly 42722
shall appoint the chairperson of the council. Members of the 42723
council shall serve without compensation. 42724

(B) The council shall ~~review, on an ongoing basis, the system~~ 42725
~~established by sections 5111.20 to 5111.32 of the Revised Code~~ 42726
advise the department of job and family services in the 42727
development of a new method for reimbursing nursing facilities 42728
under the medical assistance program to be implemented beginning 42729
fiscal year 2006. ~~The council shall recommend any changes it~~ 42730
~~determines are necessary. The council periodically shall report~~ 42731
~~its activities, findings, and recommendations to the governor, the~~ 42732
~~speaker of the house of representatives, and the president of the~~ 42733
~~senate.~~ 42734

Sec. 5111.85. (A) As used in this section, "medicaid waiver 42735
component" means a component of the medicaid program authorized by 42736
a waiver granted by the United States department of health and 42737
human services under section 1115 or 1915 of the "Social Security 42738
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid 42739
waiver component" does not include a ~~managed~~ care management 42740
system established under section ~~5111.17~~ 5111.16 of the Revised 42741
Code. 42742

(B) The director of job and family services may adopt rules 42743
under Chapter 119. of the Revised Code governing medicaid waiver 42744
components that establish all of the following: 42745

(1) Eligibility requirements for the medicaid waiver 42746
components; 42747

(2) The type, amount, duration, and scope of services the 42748

medicaid waiver components provide;	42749
(3) The conditions under which the medicaid waiver components cover services;	42750 42751
(4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;	42752 42753
(5) The manner in which the medicaid waiver components pay for services;	42754 42755
(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;	42756 42757
(7) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating medicaid provider agreements. The procedures shall include due process protections.	42758 42759 42760 42761 42762 42763
(8) Other policies necessary for the efficient administration of the medicaid waiver components.	42764 42765
(C) The director of job and family services may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.	42766 42767 42768 42769
(D) The director of job and family services may conduct reviews of the medicaid waiver components. The reviews may include physical inspections of records and sites where services are provided under the medicaid waiver components and interviews of providers and recipients of the services. If the director determines pursuant to a review that a person or government entity has violated a rule governing a medicaid waiver component, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on	42770 42771 42772 42773 42774 42775 42776 42777 42778

the violator in accordance with rules adopted under division (B) 42779
of this section. 42780

Sec. 5111.87. As used in this section and section 5111.871 of 42781
the Revised Code, "intermediate care facility for the mentally 42782
retarded" has the same meaning as in section 5111.20 of the 42783
Revised Code. 42784

The director of job and family services may apply to the 42785
United States secretary of health and human services for one or 42786
more medicaid waivers under which home and community-based 42787
services are provided to individuals with mental retardation or 42788
other developmental disability as an alternative to placement in 42789
an intermediate care facility for the mentally retarded. ~~Before~~ 42790
~~the director applies~~ The director of mental retardation and 42791
developmental disabilities may request that the director of job 42792
and family services apply for one or more medicaid waivers under 42793
this section. 42794

Before applying for a waiver under this section, the director 42795
of job and family services shall seek, accept, and consider public 42796
comments. 42797

Sec. 5111.872. When the department of mental retardation and 42798
developmental disabilities allocates enrollment numbers to a 42799
county board of mental retardation and developmental disabilities 42800
for home and community-based services provided under the component 42801
of the medicaid program that the department administers under 42802
section 5111.871 of the Revised Code, the department shall 42803
consider all of the following: 42804

(A) The number of individuals with mental retardation or 42805
other developmental disability who are on a waiting list the 42806
county board establishes under division (C) of section 5126.042 of 42807
the Revised Code for those services and are given priority on the 42808

waiting list pursuant to division (D) or (E) of that section; 42809

(B) The implementation component required by division (A)(4) 42810
of section 5126.054 of the Revised Code of the county board's plan 42811
approved under section 5123.046 of the Revised Code; 42812

(C) Anything else the department considers necessary to 42813
enable county boards to provide those services to individuals in 42814
accordance with the priority requirements of ~~division~~ divisions 42815
(D) and (E) of section 5126.042 of the Revised Code. 42816

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.882 of 42817
the Revised Code, "intermediate care facility for the mentally 42818
retarded" has the same meaning as in section 5111.20 of the 42819
Revised Code. 42820

(B) Not later than January 1, 2005, the director of job and 42821
family services shall submit both of the following to the United 42822
States secretary of health and human services: 42823

(1) An application for a waiver under which individuals with 42824
mental retardation or a developmental disability who would qualify 42825
for the intermediate care facility for the mentally retarded 42826
service if that service continued to be available under Ohio's 42827
medicaid program receive instead home and community-based 42828
services; 42829

(2) An amendment to the state medicaid plan to terminate the 42830
intermediate care facility for the mentally retarded service under 42831
the medicaid program on the date the waiver requested under 42832
division (B)(1) of this section begins to be implemented. 42833

Sec. 5111.881. If the United States secretary of health and 42834
human services approves the waiver requested under division (B)(1) 42835
of section 5111.88 of the Revised Code and the amendment to the 42836
state medicaid plan submitted under division (B)(2) of that 42837
section is approved, the intermediate care facility for the 42838

mentally retarded service shall cease to be a covered service 42839
under the medicaid program on the date the waiver begins to be 42840
implemented. 42841

Sec. 5111.882. If the United States secretary of health and 42842
human services approves the waiver requested under division (B)(1) 42843
of section 5111.88 of the Revised Code, the department of job and 42844
family services shall enter into a contract with the department of 42845
mental retardation and developmental disabilities under section 42846
5111.91 of the Revised Code that assigns the day-to-day 42847
administration of the waiver to the department of mental 42848
retardation and developmental disabilities. 42849

Sec. 5111.911. Any contract the department of job and family 42850
services enters into with the department of mental health or 42851
department of alcohol and drug addiction services under section 42852
5111.91 of the Revised Code is subject to the approval of the 42853
director of budget and management and shall require or specify all 42854
of the following: 42855

(A) In the case of a contract with the department of mental 42856
health, that section 5111.912 of the Revised Code be complied 42857
with; 42858

(B) In the case of a contract with the department of alcohol 42859
and drug addiction services, that section 5111.913 of the Revised 42860
Code be complied with; 42861

(C) How providers will be paid for providing the services; 42862

(D) The department of mental health's or department of 42863
alcohol and drug addiction services' responsibilities for 42864
reimbursing providers, including program oversight and quality 42865
assurance. 42866

Sec. 5111.912. If the department of job and family services 42867

enters into a contract with the department of mental health under 42868
section 5111.91 of the Revised Code, the department of mental 42869
health and boards of alcohol, drug addiction, and mental health 42870
services shall pay the nonfederal share of any medicaid payment to 42871
a provider for services under the component, or aspect of the 42872
component, the department of mental health administers. 42873

Sec. 5111.913. If the department of job and family services 42874
enters into a contract with the department of alcohol and drug 42875
addiction services under section 5111.91 of the Revised Code, the 42876
department of alcohol and drug addiction services and boards of 42877
alcohol, drug addiction, and mental health services shall pay the 42878
nonfederal share of any medicaid payment to a provider for 42879
services under the component, or aspect of the component, the 42880
department of alcohol and drug addiction services administers. 42881

Sec. 5111.94. (A) As used in this section, "vendor offset" 42882
means a reduction of a medicaid payment to a medicaid provider to 42883
correct a previous, incorrect medicaid payment to that provider. 42884

(B) There is hereby created in the state treasury the health 42885
care services administration fund. Except as provided in division 42886
(C) of this section, all the following shall be deposited into the 42887
fund: 42888

(1) Amounts deposited into the fund pursuant to sections 42889
5111.92 and 5111.93 of the Revised Code; 42890

(2) The amount of the state share of all money the department 42891
of job and family services, in fiscal year 2003 and each fiscal 42892
year thereafter, recovers pursuant to a tort action under the 42893
department's right of recovery under section 5101.58 of the 42894
Revised Code that exceeds the state share of all money the 42895
department, in fiscal year 2002, recovers pursuant to a tort 42896
action under that right of recovery; 42897

(3) Subject to division (D) of this section, the amount of 42898
the state share of all money the department of job and family 42899
services, in fiscal year 2003 and each fiscal year thereafter, 42900
recovers through audits of medicaid providers that exceeds the 42901
state share of all money the department, in fiscal year 2002, 42902
recovers through such audits; 42903

(4) ~~Until October 16, 2003, amounts~~ Amounts from assessments 42904
on hospitals under section 5112.06 of the Revised Code and 42905
intergovernmental transfers by governmental hospitals under 42906
section 5112.07 of the Revised Code that are deposited into the 42907
fund in accordance with the law. 42908

(C) No funds shall be deposited into the health care services 42909
administration fund in violation of federal statutes or 42910
regulations. 42911

(D) In determining under division (B)(3) of this section the 42912
amount of money the department, in a fiscal year, recovers through 42913
audits of medicaid providers, the amount recovered in the form of 42914
vendor offset shall be excluded. 42915

(E) The director of job and family services shall use funds 42916
available in the health care services administration fund to pay 42917
for costs associated with the administration of the medicaid 42918
program. 42919

Sec. 5111.95. (A) As used in this section: 42920

(1) "Applicant" means a person who is under final 42921
consideration for employment or, after the effective date of this 42922
section, an existing employee with a waiver agency in a full-time, 42923
part-time, or temporary position that involves providing home and 42924
community-based waiver services to a person with disabilities. 42925
"Applicant" also means an existing employee with a waiver agency 42926
in a full-time, part-time, or temporary position that involves 42927

providing home and community-based waiver services to a person 42928
with disabilities after the effective date of this section. 42929

(2) "Criminal records check" has the same meaning as in 42930
section 109.572 of the Revised Code. 42931

(3) "Waiver agency" means a person or government entity that 42932
is not certified under the medicare program and is accredited by 42933
the community health accreditation program or the joint commission 42934
on accreditation of health care organizations or a company that 42935
provides home and community-based waiver services to persons with 42936
disabilities through any department of job and family services 42937
administered home and community-based waiver services. 42938

(4) "Home and community-based waiver services" means services 42939
furnished under the provision of 42 C.F.R. 441, subpart G, that 42940
permit individuals to live in a home setting rather than a nursing 42941
facility or hospital. Home and community-based waiver services are 42942
approved by the county medical services section of the department 42943
of job and family services for specific populations and are not 42944
otherwise available under the medicaid state plan. 42945

(B)(1) The chief administrator of a waiver agency shall 42946
request that the superintendent of the bureau of criminal 42947
identification and investigation conduct a criminal records check 42948
with respect to each applicant. If an applicant for whom a 42949
criminal records check request is required under this division 42950
does not present proof of having been a resident of this state for 42951
the five-year period immediately prior to the date the criminal 42952
records check is requested or provide evidence that within that 42953
five-year period the superintendent has requested information 42954
about the applicant from the federal bureau of investigation in a 42955
criminal records check, the chief administrator shall request that 42956
the superintendent obtain information from the federal bureau of 42957
investigation as part of the criminal records check of the 42958
applicant. Even if an applicant for whom a criminal records check 42959

request is required under this division presents proof of having 42960
been a resident of this state for the five-year period, the chief 42961
administrator may request that the superintendent include 42962
information from the federal bureau of investigation in the 42963
criminal records check. 42964

(2) A person required by division (B)(1) of this section to 42965
request a criminal records check shall do both of the following: 42966

(a) Provide to each applicant for whom a criminal records 42967
check request is required under division (B)(1) of this section a 42968
copy of the form prescribed pursuant to division (C)(1) of section 42969
109.572 of the Revised Code and a standard fingerprint impression 42970
sheet prescribed pursuant to division (C)(2) of that section, and 42971
obtain the completed form and impression sheet from the applicant; 42972

(b) Forward the completed form and impression sheet to the 42973
superintendent of the bureau of criminal identification and 42974
investigation. 42975

(3) An applicant provided the form and fingerprint impression 42976
sheet under division (B)(2)(a) of this section who fails to 42977
complete the form or provide fingerprint impressions shall not be 42978
employed in any position in a waiver agency for which a criminal 42979
records check is required by this section. 42980

(C)(1) Except as provided in rules adopted by the department 42981
of job and family services in accordance with division (F) of this 42982
section and subject to division (C)(2) of this section, no waiver 42983
agency shall employ a person in a position that involves providing 42984
home and community-based waiver services to persons with 42985
disabilities if the person has been convicted of or pleaded guilty 42986
to any of the following: 42987

(a) A violation of section 2903.01, 2903.02, 2903.03, 42988
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 42989
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 42990

2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 42991
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 42992
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 42993
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 42994
2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 42995
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 42996
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 42997
Revised Code, felonious sexual penetration in violation of former 42998
section 2907.12 of the Revised Code, a violation of section 42999
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 43000
violation of section 2919.23 of the Revised Code that would have 43001
been a violation of section 2905.04 of the Revised Code as it 43002
existed prior to July 1, 1996, had the violation been committed 43003
prior to that date; 43004

(b) An existing or former law of this state, any other state, 43005
or the United States that is substantially equivalent to any of 43006
the offenses listed in division (C)(1)(a) of this section. 43007

(2)(a) A waiver agency may employ conditionally an applicant 43008
for whom a criminal records check request is required under 43009
division (B) of this section prior to obtaining the results of a 43010
criminal records check regarding the individual, provided that the 43011
agency shall request a criminal records check regarding the 43012
individual in accordance with division (B)(1) of this section not 43013
later than five business days after the individual begins 43014
conditional employment. 43015

(b) A waiver agency that employs an individual conditionally 43016
under authority of division (C)(2)(a) of this section shall 43017
terminate the individual's employment if the results of the 43018
criminal records check request under division (B) of this section, 43019
other than the results of any request for information from the 43020
federal bureau of investigation, are not obtained within the 43021
period ending sixty days after the date the request is made. 43022

Regardless of when the results of the criminal records check are 43023
obtained, if the results indicate that the individual has been 43024
convicted of or pleaded guilty to any of the offenses listed or 43025
described in division (C)(1) of this section, the agency shall 43026
terminate the individual's employment unless the agency chooses to 43027
employ the individual pursuant to division (F) of this section. 43028
Termination of employment under this division shall be considered 43029
just cause for discharge for purposes of division (D)(2) of 43030
section 4141.29 of the Revised Code if the individual makes any 43031
attempt to deceive the agency about the individual's criminal 43032
record. 43033

(D)(1) Each waiver agency shall pay to the bureau of criminal 43034
identification and investigation the fee prescribed pursuant to 43035
division (C)(3) of section 109.572 of the Revised Code for each 43036
criminal records check conducted pursuant to a request made under 43037
division (B) of this section. 43038

(2) A waiver agency may charge an applicant a fee not 43039
exceeding the amount the agency pays under division (D)(1) of this 43040
section. An agency may collect a fee only if the agency notifies 43041
the person at the time of initial application for employment of 43042
the amount of the fee and that, unless the fee is paid, the person 43043
will not be considered for employment. 43044

(E) The report of any criminal records check conducted 43045
pursuant to a request made under this section is not a public 43046
record for the purposes of section 149.43 of the Revised Code and 43047
shall not be made available to any person other than the 43048
following: 43049

(1) The individual who is the subject of the criminal records 43050
check or the individual's representative; 43051

(2) The chief administrator of the agency requesting the 43052
criminal records check or the administrator's representative; 43053

(3) A court, hearing officer, or other necessary individual 43054
involved in a case dealing with a denial of employment of the 43055
applicant or dealing with employment or unemployment benefits of 43056
the applicant. 43057

(F) The department shall adopt rules in accordance with 43058
Chapter 119. of the Revised Code to implement this section. The 43059
rules shall specify circumstances under which a waiver agency may 43060
employ a person who has been convicted of or pleaded guilty to an 43061
offense listed or described in division (C)(1) of this section but 43062
meets personal character standards set by the department. 43063

(G) The chief administrator of a waiver agency shall inform 43064
each person, at the time of initial application for a position 43065
that involves providing home and community-based waiver services 43066
to a person with a disability, that the person is required to 43067
provide a set of fingerprint impressions and that a criminal 43068
records check is required to be conducted if the person comes 43069
under final consideration for employment. 43070

(H)(1) A person who, on the effective date of this section, 43071
is an employee of a waiver agency in a full-time, part-time, or 43072
temporary position that involves providing home and 43073
community-based waiver services to a person with disabilities 43074
shall comply with this section within sixty days after the 43075
effective date of this section unless division (H)(2) of this 43076
section applies. 43077

(2) This section shall not apply to a person to whom both of 43078
the following apply: 43079

(a) On the effective date of this section, the person is an 43080
employee of a waiver agency in a full-time, part-time, or 43081
temporary position that involves providing home and 43082
community-based waiver services to a person with disabilities. 43083

(b) The person previously had been the subject of a criminal 43084

background check relating to that position; 43085

(c) The person has been continuously employed in that 43086
position since that criminal background check had been conducted. 43087

Sec. 5111.96. (A) As used in this section: 43088

(1) "Anniversary date" means the later of the effective date 43089
of the provider agreement relating to the independent provider or 43090
sixty days after the effective date of this section. 43091

(2) "Criminal records check" has the same meaning as in 43092
section 109.572 of the Revised Code. 43093

(3) "The department" means the department of job and family 43094
services or its designee. 43095

(4) "Independent provider" means a person who is submitting 43096
an application for a provider agreement or who has a provider 43097
agreement as an independent provider in a department of job and 43098
family services administered home and community-based services 43099
program providing home and community-based waiver services to 43100
consumers with disabilities. 43101

(5) "Home and community-based waiver services" has the same 43102
meaning as in section 5111.95 of the Revised Code. 43103

(B)(1) The department shall inform each independent provider, 43104
at the time of initial application for a provider agreement that 43105
involves providing home and community-based waiver services to 43106
consumers with disabilities, that the independent provider is 43107
required to provide a set of fingerprint impressions and that a 43108
criminal records check is required to be conducted if the person 43109
is to become an independent provider in a department administered 43110
home and community-based services program. 43111

(2) Beginning on the effective date of this section, the 43112
department shall inform each enrolled medicaid independent 43113
provider on or before time of the anniversary date of the provider 43114

agreement that involves providing home and community-based waiver services to consumers with disabilities that the independent provider is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted. 43115
43116
43117
43118

(C)(1) The department shall require the independent provider to complete a criminal records check prior to entering into a provider agreement with the independent provider and at least annually thereafter. If an independent provider for whom a criminal records check is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the department shall request the independent provider obtain through the superintendent a criminal records request from the federal bureau of investigation as part of the criminal records check of the independent provider. Even if an independent provider for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the department may request that the independent provider obtain information through the superintendent from the federal bureau of investigation in the criminal records check. 43119
43120
43121
43122
43123
43124
43125
43126
43127
43128
43129
43130
43131
43132
43133
43134
43135
43136
43137
43138

(2) The department shall do both of the following: 43139

(a) Provide information to each independent provider for whom a criminal records check request is required under division (C)(1) of this section about requesting a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet and fee from the independent provider; 43140
43141
43142
43143
43144
43145
43146

(b) Forward the completed form, impression sheet, and fee to the superintendent of the bureau of criminal identification and investigation. 43147
43148
43149

(3) An independent provider given information about obtaining the form and fingerprint impression sheet under division (C)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be approved as an independent provider. 43150
43151
43152
43153
43154

(D) Except as provided in rules adopted by the department in accordance with division (G) of this section, the department shall not issue a new provider agreement to, and shall terminate an existing provider agreement of, an independent provider if the person has been convicted of or pleaded guilty to any of the following: 43155
43156
43157
43158
43159
43160

(1) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date; 43161
43162
43163
43164
43165
43166
43167
43168
43169
43170
43171
43172
43173
43174
43175
43176
43177

(2) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (D)(1) of this section. 43178
43179
43180

(E) Each independent provider shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (C) of this section. 43181
43182
43183
43184
43185

(F) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (C) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following: 43186
43187
43188
43189
43190
43191

(1) The person who is the subject of the criminal records check or the person's representative; 43192
43193

(2) The administrator at the department who is requesting the criminal records check or the administrator's representative; 43194
43195

(3) Any court, hearing officer, or other necessary individual involved in a case dealing with a denial or termination of a provider agreement related to the criminal records check. 43196
43197
43198

(G) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the department may issue a provider agreement to an independent provider who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department. 43199
43200
43201
43202
43203
43204
43205

Sec. 5111.97. (A) The director of job and family services may submit a request to the United States secretary of health and 43206
43207

human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain waivers of federal medicaid requirements that would otherwise be violated in the creation and implementation of two medicaid home and community-based services programs to replace the Ohio home care program being operated pursuant to rules adopted under sections 5111.01 and 5111.02 of the Revised Code and a medicaid waiver granted prior to the effective date of this section. In the request, the director may specify the following:

(1) That one of the replacement programs will provide home and community-based services to individuals in need of nursing facility care, including individuals enrolled in the Ohio home care program;

(2) That the other replacement program will provide services to individuals in need of hospital care, including individuals enrolled in the Ohio home care program;

(3) That there will be a maximum number of individuals who may be enrolled in the replacement programs in addition to the number of individuals to be transferred from the Ohio home care program;

(4) That there will be a maximum amount the department may expend each year for each individual enrolled in the replacement programs;

(5) That there will be a maximum aggregate amount the department may expend each year for all individuals enrolled in the replacement programs;

(6) Any other requirement the director selects for the replacement programs.

(B) If the secretary grants the medicaid waivers requested, the director may create and implement the replacement programs in accordance with the provisions of the waivers granted. The

department of job and family services shall administer the 43239
replacement programs. 43240

As the replacement programs are implemented, the director 43241
shall reduce the maximum number of individuals who may be enrolled 43242
in the Ohio home care program by the number of individuals who are 43243
transferred to the replacement programs. When all individuals who 43244
are eligible to be transferred to the replacement programs have 43245
been transferred, the director may submit to the secretary an 43246
amendment to the state medicaid plan to provide for the 43247
elimination of the Ohio home care program. 43248

Sec. 5111.98. (A) As used in sections 5111.98 to 5111.982 of 43249
the Revised Code: 43250

(1) "Personal care services," "residential care facility," 43251
and "skilled nursing care" have the same meanings as in section 43252
3721.01 of the Revised Code. 43253

(2) "Nursing facility" has the same meaning as in section 43254
5111.20 of the Revised Code. 43255

(B) The director of job and family services may apply to the 43256
United States secretary of health and human services for a waiver 43257
pursuant to section 1915 of the "Social Security Act," 49 Stat. 43258
620 (1935), 42 U.S.C. 1396n, as amended, to provide personal care 43259
services to individuals in residential care facilities. 43260

Sec. 5111.981. If a waiver submitted under section 5111.97 of 43261
the Revised Code is approved, the department of job and family 43262
services may establish the personal care services program. The 43263
department may enter into an interagency agreement with the 43264
department of aging under section 5111.91 of the Revised Code for 43265
administration of the personal care services program by the 43266
department of aging. 43267

Under the program, personal care services may be provided to 43268

any medicaid recipient who qualifies for skilled nursing care and 43269
is one of the following: 43270

(A) A resident of a nursing facility who desires to move to a 43271
residential care facility; 43272

(B) A participant in the PASSPORT program created under 43273
section 173.40 of the Revised Code who seeks to enter a nursing 43274
facility; 43275

(C) A resident of a residential care facility who seeks to 43276
enter a nursing facility. 43277

Sec. 5111.982. If the personal care services program is 43278
established under section 5111.97 of the Revised Code, the 43279
department of job and family services shall adopt rules governing 43280
the program. If the department, pursuant to section 5111.971 of 43281
the Revised Code, enters into an interagency agreement with the 43282
department of aging under section 5111.91 of the Revised Code, the 43283
department shall consult with the department of aging before 43284
adopting the rules. 43285

Sec. 5111.99. (A) Whoever violates division (B) of section 43286
5111.26 5111.23 or division (D) of section ~~5111.31~~ 5111.222 of the 43287
Revised Code shall be fined not less than five hundred dollars nor 43288
more than one thousand dollars for the first offense and not less 43289
than one thousand dollars nor more than five thousand dollars for 43290
each subsequent offense. Fines paid under this section shall be 43291
deposited in the state treasury to the credit of the general 43292
revenue fund. 43293

(B) Whoever violates division (D) of section 5111.61 of the 43294
Revised Code is guilty of registering a false complaint, a 43295
misdemeanor of the first degree. 43296

Sec. 5112.03. (A) The director of job and family services 43297

shall adopt, and may amend and rescind, rules in accordance with 43298
Chapter 119. of the Revised Code for the purpose of administering 43299
sections 5112.01 to 5112.21 of the Revised Code, including rules 43300
that do all of the following: 43301

(1) Define as a "disproportionate share hospital" any 43302
hospital included under subsection (b) of section 1923 of the 43303
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 43304
1396r-4(b), as amended, and any other hospital the director 43305
determines appropriate; 43306

(2) Prescribe the form for submission of cost reports under 43307
section 5112.04 of the Revised Code; 43308

(3) Establish, in accordance with division (A) of section 43309
5112.06 of the Revised Code, the assessment rate or rates to be 43310
applied to hospitals under that section; 43311

(4) Establish schedules for hospitals to pay installments on 43312
their assessments under section 5112.06 of the Revised Code and 43313
for governmental hospitals to pay installments on their 43314
intergovernmental transfers under section 5112.07 of the Revised 43315
Code; 43316

(5) Establish procedures to notify hospitals of adjustments 43317
made under division (B)(2)(b) of section 5112.06 of the Revised 43318
Code in the amount of installments on their assessment; 43319

(6) Establish procedures to notify hospitals of adjustments 43320
made under division (D) of section 5112.09 of the Revised Code in 43321
the total amount of their assessment and to adjust for the 43322
remainder of the program year the amount of the installments on 43323
the assessments; 43324

(7) Establish, in accordance with section 5112.08 of the 43325
Revised Code, the methodology for paying hospitals under that 43326
section. 43327

The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.

(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:

(1) Recipients of the medical assistance program;

(2) Recipients of financial assistance provided under Chapter 5115. of the Revised Code;

~~(3)~~ Recipients of ~~disability assistance~~ medical assistance provided under Chapter 5115. of the Revised Code;

~~(3)~~(4) Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;

~~(4)~~(5) Recipients of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended:

~~(5)~~(6) Recipients of Title V of the "Social Security Act";

~~(6)~~(7) Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act" and the rules adopted under that title.

Sec. 5112.08. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code establishing a methodology to pay hospitals that is sufficient to expend all money in the indigent care pool. Under the rules:

(A) The department of job and family services may classify similar hospitals into groups and allocate funds for distribution within each group.

(B) The department shall establish a method of allocating funds to hospitals, taking into consideration the relative amount

of indigent care provided by each hospital or group of hospitals. 43357
The amount to be allocated shall be based on any combination of 43358
the following indicators of indigent care that the director 43359
considers appropriate: 43360

(1) Total costs, volume, or proportion of services to 43361
recipients of the medical assistance program, including recipients 43362
enrolled in health insuring corporations; 43363

(2) Total costs, volume, or proportion of services to 43364
low-income patients in addition to recipients of the medical 43365
assistance program, which may include recipients of Title V of the 43366
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 43367
amended, and disability recipients of financial or medical 43368
assistance established provided under Chapter 5115. of the Revised 43369
Code; 43370

(3) The amount of uncompensated care provided by the hospital 43371
or group of hospitals; 43372

(4) Other factors that the director considers to be 43373
appropriate indicators of indigent care. 43374

(C) The department shall distribute funds to each hospital or 43375
group of hospitals in a manner that first may provide for an 43376
additional distribution to individual hospitals that provide a 43377
high proportion of indigent care in relation to the total care 43378
provided by the hospital or in relation to other hospitals. The 43379
department shall establish a formula to distribute the remainder 43380
of the funds. The formula shall be consistent with section 1923 of 43381
the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall 43382
be based on any combination of the indicators of indigent care 43383
listed in division (B) of this section that the director considers 43384
appropriate. 43385

(D) The department shall distribute funds to each hospital in 43386
installments not later than ten working days after the deadline 43387

established in rules for each hospital to pay an installment on 43388
its assessment under section 5112.06 of the Revised Code. In the 43389
case of a governmental hospital that makes intergovernmental 43390
transfers, the department shall pay an installment under this 43391
section not later than ten working days after the earlier of that 43392
deadline or the deadline established in rules for the governmental 43393
hospital to pay an installment on its intergovernmental transfer. 43394
If the amount in the hospital care assurance program fund and the 43395
hospital care assurance match fund created under section 5112.18 43396
of the Revised Code is insufficient to make the total 43397
distributions for which hospitals are eligible to receive in any 43398
period, the department shall reduce the amount of each 43399
distribution by the percentage by which the amount is 43400
insufficient. The department shall distribute to hospitals any 43401
amounts not distributed in the period in which they are due as 43402
soon as moneys are available in the funds. 43403

Sec. 5112.17. (A) As used in this section: 43404

(1) "Federal poverty guideline" means the official poverty 43405
guideline as revised annually by the United States secretary of 43406
health and human services in accordance with section 673 of the 43407
"Community Service Block Grant Act," 95 Stat. 511 (1981), 42 43408
U.S.C.A. 9902, as amended, for a family size equal to the size of 43409
the family of the person whose income is being determined. 43410

(2) "Third-party payer" means any private or public entity or 43411
program that may be liable by law or contract to make payment to 43412
or on behalf of an individual for health care services. 43413
"Third-party payer" does not include a hospital. 43414

(B) Each hospital that receives funds distributed under 43415
sections 5112.01 to 5112.21 of the Revised Code shall provide, 43416
without charge to the individual, basic, medically necessary 43417
hospital-level services to individuals who are residents of this 43418

state, are not recipients of the medical assistance program, and 43419
whose income is at or below the federal poverty guideline. 43420
Recipients of disability financial assistance and recipients of 43421
disability medical assistance provided under Chapter 5115. of the 43422
Revised Code qualify for services under this section. The director 43423
of job and family services shall adopt rules under section 5112.03 43424
of the Revised Code specifying the hospital services to be 43425
provided under this section. 43426

(C) Nothing in this section shall be construed to prevent a 43427
hospital from requiring an individual to apply for eligibility 43428
under the medical assistance program before the hospital processes 43429
an application under this section. Hospitals may bill any 43430
third-party payer for services rendered under this section. 43431
Hospitals may bill the medical assistance program, in accordance 43432
with Chapter 5111. of the Revised Code and the rules adopted under 43433
that chapter, for services rendered under this section if the 43434
individual becomes a recipient of the program. Hospitals may bill 43435
individuals for services under this section if all of the 43436
following apply: 43437

(1) The hospital has an established post-billing procedure 43438
for determining the individual's income and canceling the charges 43439
if the individual is found to qualify for services under this 43440
section. 43441

(2) The initial bill, and at least the first follow-up bill, 43442
is accompanied by a written statement that does all of the 43443
following: 43444

(a) Explains that individuals with income at or below the 43445
federal poverty guideline are eligible for services without 43446
charge; 43447

(b) Specifies the federal poverty guideline for individuals 43448
and families of various sizes at the time the bill is sent; 43449

(c) Describes the procedure required by division (C)(1) of this section. 43450
43451

(3) The hospital complies with any additional rules the department adopts under section 5112.03 of the Revised Code. 43452
43453

Notwithstanding division (B) of this section, a hospital providing care to an individual under this section is subrogated to the rights of any individual to receive compensation or benefits from any person or governmental entity for the hospital goods and services rendered. 43454
43455
43456
43457
43458

(D) Each hospital shall collect and report to the department, in the form and manner prescribed by the department, information on the number and identity of patients served pursuant to this section. 43459
43460
43461
43462

(E) This section applies beginning May 22, 1992, regardless of whether the department has adopted rules specifying the services to be provided. Nothing in this section alters the scope or limits the obligation of any governmental entity or program, including the program awarding reparations to victims of crime under sections 2743.51 to 2743.72 of the Revised Code and the program for medically handicapped children established under section 3701.023 of the Revised Code, to pay for hospital services in accordance with state or local law. 43463
43464
43465
43466
43467
43468
43469
43470
43471

Sec. 5112.31. The department of job and family services shall: 43472
43473

(A) For the purpose of providing home and community-based services for mentally retarded and developmentally disabled persons, annually assess each intermediate care facility for the mentally retarded a franchise permit fee equal to nine dollars and ~~twenty-four~~ sixty-three cents multiplied by the product of the following: 43474
43475
43476
43477
43478
43479

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the same calendar year.

(B) ~~Not later than~~ Beginning July 1, ~~1996~~ 2005, and the first day of each July thereafter, adjust fees determined under division (A) of this section in accordance with the composite inflation factor established in rules adopted under section 5112.39 of the Revised Code.

If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, the department shall take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.99. (A) The director of job and family services shall impose a penalty ~~of one hundred dollars~~ for each day that a hospital fails to report the information required under section 5112.04 of the Revised Code on or before the dates specified in that section. The amount of the penalty shall be established by the director in rules adopted under section 5112.03 of the Revised Code.

(B) In addition to any other remedy available to the department of job and family services under law to collect unpaid assessments and transfers, the director shall impose a penalty of ten per cent of the amount due, ~~not to exceed twenty thousand~~

~~dollars,~~ on any hospital that fails to pay assessments or make 43510
intergovernmental transfers by the dates required by rules adopted 43511
under section 5112.03 of the Revised Code. 43512

(C) The director shall waive the penalties provided for in 43513
divisions (A) and (B) of this section for good cause shown by the 43514
hospital. 43515

(D) All penalties imposed under this section shall be 43516
deposited into the ~~general revenue~~ health care administration fund 43517
created by section 5111.94 of the Revised Code. 43518

Sec. 5115.01. ~~(A) There is hereby established~~ The director of 43519
job and family services shall establish the disability financial 43520
assistance program. ~~Except as provided in division (D) of this~~ 43521
~~section, a disability assistance recipient shall receive financial~~ 43522
~~assistance. Except as provided in section 5115.11 of the Revised~~ 43523
~~Code, a disability assistance recipient also shall receive~~ 43524
~~disability assistance medical assistance.~~ 43525

~~Except as provided by division (B) of this section, a person~~ 43526
~~who meets all of the following requirements is~~ (B) Subject to all 43527
other eligibility requirements established by this chapter and the 43528
rules adopted under it for the disability financial assistance 43529
program, a person may be eligible for disability financial 43530
assistance only if one of the following applies: 43531

(1) The person is ~~ineligible to participate in the Ohio works~~ 43532
~~first program established under Chapter 5107. of the Revised Code~~ 43533
~~and to receive supplemental security income provided pursuant to~~ 43534
~~Title XVI of the Social Security Act, 86 Stat. 1475 (1972), 42~~ 43535
~~U.S.C.A. 1383, as amended;~~ 43536

~~(2) The person is at least one of the following:~~ 43537

~~(a) Under age eighteen;~~ 43538

~~(b) Age sixty or older;~~ 43539

~~(c) Pregnant;~~ 43540

~~(d) Unable unable to do any substantial or gainful activity 43541
by reason of a medically determinable physical or mental 43542
impairment that can be expected to result in death or has lasted 43543
or can be expected to last for not less than nine months;~~ 43544

~~(e) A resident of a residential treatment center certified as 43545
an alcohol or drug addiction program by the department of alcohol 43546
and drug addiction services under section 3793.06 of the Revised 43547
Code.~~ 43548

~~(f) Medication dependent as determined by a physician, as 43549
defined in section 4730.01 of the Revised Code, who has certified 43550
to the county department of job and family services that the 43551
person is receiving ongoing treatment for a chronic medical 43552
condition requiring continuous prescription medication for an 43553
indefinite, long term period of time and for whom the loss of the 43554
medication would result in a significant risk of medical emergency 43555
and loss of employability lasting at least nine months.~~ 43556

~~(3) The (2) On the day before the effective date of this 43557
amendment, the person meets the eligibility requirements 43558
established in rules adopted under section 5115.05 of the Revised 43559
Code was sixty years of age or older and one of the following is 43560
the case: 43561~~

~~(a) The person was receiving or was scheduled to begin 43562
receiving financial assistance under this chapter on the basis of 43563
being sixty years of age or older; 43564~~

~~(b) An eligibility determination was pending regarding the 43565
person's application to receive financial assistance under this 43566
chapter on the basis of being sixty years of age or older and, on 43567
or after the effective date of this amendment, the person receives 43568
a determination of eligibility based on that application. 43569~~

~~(B)(1) A person is ineligible for disability assistance if 43570
the person is ineligible to participate in the Ohio works first 43571
program because of any of the following: 43572~~

~~(a) Section 5101.83, 5107.14, or 5107.16 of the Revised Code; 43573~~

~~(b) The time limit established by section 5107.18 of the 43574
Revised Code; 43575~~

~~(c) Failure to comply with an application or verification 43576
procedure; 43577~~

~~(d) The fraud control program established pursuant to 45 43578
C.F.R. 235.112, as in effect July 1, 1996. 43579~~

~~(2) A person under age eighteen is ineligible for disability 43580
assistance pursuant to division (B)(1)(a) of this section only if 43581
the person caused the assistance group to be ineligible to 43582
participate in the Ohio works first program or resides with a 43583
person age eighteen or older who was a member of the same 43584
ineligible assistance group. A person age eighteen or older is 43585
ineligible for disability assistance pursuant to division 43586
(B)(1)(a) of this section regardless of whether the person caused 43587
the assistance group to be ineligible to participate in the Ohio 43588
works first program. 43589~~

~~(C) The county department of job and family services that 43590
serves the county in which a person receiving disability 43591
assistance pursuant to division (A)(2)(c) of this section 43592
participates in an alcohol or drug addiction program shall 43593
designate a representative payee for purposes of receiving and 43594
distributing financial assistance provided under the disability 43595
assistance program to the person. 43596~~

~~(D) A person eligible for disability assistance pursuant to 43597
division (A)(2)(f) of this section shall not receive financial 43598
assistance. 43599~~

~~(E) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code defining terms and establishing standards for determining whether a person meets a condition of disability assistance eligibility pursuant to this section.~~

Sec. 5115.04 5115.02. (A) An individual is not eligible for disability financial assistance under this chapter if ~~either~~ any of the following apply:

~~(A)(1) The individual is eligible to participate in the Ohio works first program established under Chapter 5107. of the Revised Code; eligible to receive supplemental security income provided pursuant to Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 1383, as amended; or eligible to participate in or receive assistance through another state or federal program that provides financial assistance similar to disability financial assistance, as determined by the director of job and family services;~~

(2) The individual is ineligible to participate in the Ohio works first program because of any of the following:

(a) The time limit established by section 5107.18 of the Revised Code;

(b) Failure to comply with an application or verification procedure;

(c) The fraud control provisions of section 5101.83 of the Revised Code or the fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996;

(d) The self-sufficiency contract provisions of sections 5107.14 and 5107.16 of the Revised Code;

(e) The minor parent provisions of section 5107.24 of the Revised Code;

(f) The provisions of section 5107.26 of the Revised Code 43630
regarding termination of employment without just cause. 43631

(5) The individual, or any of the other individuals included 43632
in determining the individual's eligibility, is involved in a 43633
strike, as defined in section 5107.10 of the Revised Code; 43634

(6) For the purpose of avoiding consideration of property in 43635
determinations of the individual's eligibility for disability 43636
financial assistance or a greater amount of assistance, the 43637
individual has transferred property during the two years preceding 43638
application for or most recent redetermination of eligibility for 43639
disability assistance; 43640

(7) The individual is a child and does not live with the 43641
child's parents, guardians, or other persons standing in place of 43642
parents, unless the child is emancipated by being married, by 43643
serving in the armed forces, or by court order; 43644

(8) The individual reside in a county home, city infirmary, 43645
jail, or public institution; 43646

(9) The individual is a fugitive felon as defined in section 43647
5101.26 of the Revised Code; 43648

~~(B)~~(10) The individual is violating a condition of probation, 43649
a community control sanction, parole, or a post-release control 43650
sanction imposed under federal or state law. 43651

(B)(1) As used in division (B)(2) of this section, 43652
"assistance group" has the same meaning as in section 5107.02 of 43653
the Revised Code. 43654

(2) Ineligibility under division (A)(2)(c) or (d) of this 43655
section applies as follows: 43656

(a) In the case of an individual who is under eighteen years 43657
of age, the individual is ineligible only if the individual caused 43658
the assistance group to be ineligible to participate in the Ohio 43659

works first program or resides with an individual eighteen years of age or older who was a member of the same ineligible assistance group. 43660
43661
43662

(b) In the case of an individual who is eighteen years of age or older, the individual is ineligible regardless of whether the individual caused the assistance group to be ineligible to participate in the Ohio works first program. 43663
43664
43665
43666

Sec. 5115.03. (A) The director of job and family services shall ~~do both of the following:~~ 43667
43668

~~(A) Adopt~~ adopt rules in accordance with section 111.15 of the Revised Code governing the ~~administration of~~ disability assistance, including the ~~administration of~~ financial assistance and ~~disability assistance medical assistance~~ program. The rules shall be ~~binding on county departments of job and family services.~~ 43669
43670
43671
43672
43673

~~(B) Make investigations to determine whether disability assistance is being administered in compliance with the Revised Code and rules adopted by the director.~~ may establish or specify any or all of the following: 43674
43675
43676
43677

(1) Maximum payment amounts under the disability financial assistance program, based on state appropriations for the program; 43678
43679

(2) Limits on the length of time an individual may receive disability financial assistance; 43680
43681

(3) Limits on the total number of individuals in the state who may receive disability financial assistance; 43682
43683

(4) Income, resource, citizenship, age, residence, living arrangement, and other eligibility requirements for disability financial assistance; 43684
43685
43686

(5) Procedures for disregarding amounts of earned and unearned income for the purpose of determining eligibility for disability financial assistance and the amount of assistance to be 43687
43688
43689

provided; 43690

(6) Procedures for including the income and resources, or a certain amount of the income and resources, of a member of an individual's family when determining eligibility for disability financial assistance and the amount of assistance to be provided. 43691
43692
43693
43694

(B) In establishing or specifying eligibility requirements for disability financial assistance, the director shall exclude the value of any tuition payment contract entered into under section 3334.09 of the Revised Code or any scholarship awarded under section 3334.18 of the Revised Code and the amount of payments made by the Ohio tuition trust authority under section 3334.09 of the Revised Code pursuant to the contract or scholarship. The director shall not require any individual to terminate a tuition payment contract entered into under Chapter 3334. of the Revised Code as a condition of eligibility for disability financial assistance. The director shall consider as income any refund paid under section 3334.10 of the Revised Code. 43695
43696
43697
43698
43699
43700
43701
43702
43703
43704
43705
43706

(C) Notwithstanding section 3109.01 of the Revised Code, when a disability financial assistance applicant or recipient who is at least eighteen but under twenty-two years of age resides with the applicant's or recipient's parents, the income of the parents shall be taken into account in determining the applicant's or recipient's financial eligibility. In the rules adopted under this section, the director shall specify procedures for determining the amount of income to be attributed to applicants and recipients in this age category. 43707
43708
43709
43710
43711
43712
43713
43714
43715

(D) For purposes of limiting the cost of the disability financial assistance program, the director may do either or both of the following: 43716
43717
43718

(1) Adopt rules in accordance with section 111.15 of the Revised Code that revise the program's eligibility requirements, 43719
43720

the maximum payment amounts, or any other requirement or standard 43721
established or specified in the rules adopted by the director; 43722

(2) Suspend acceptance of new applications for disability 43723
financial assistance. While a suspension is in effect, new 43724
eligibility determinations shall cease except for persons who 43725
submitted applications prior to the suspension's effective date, 43726
and no person shall be found eligible to receive disability 43727
financial assistance who was not a recipient during the month 43728
immediately preceding the suspension's effective date. The 43729
director may adopt rules in accordance with section 111.15 of the 43730
Revised Code establishing requirements and specifying procedures 43731
applicable to the suspension of acceptance of new applications. 43732

Sec. 5115.02 5115.04. (A) The department of job and family 43733
services shall supervise and administer the disability financial 43734
assistance program, except that the department may require county 43735
departments of job and family services to perform any 43736
administrative function specified in rules adopted by the director 43737
of job and family services, ~~including making determinations of~~ 43738
~~financial eligibility and initial determinations of whether an~~ 43739
~~applicant meets a condition of eligibility under division~~ 43740
~~(A)(2)(d) of section 5115.01 of the Revised Code, distributing~~ 43741
~~financial assistance payments, reimbursing providers of medical~~ 43742
~~services for services provided to disability assistance~~ 43743
~~recipients, and any other function specified in the rules. The~~ 43744
~~department may also require county departments to make a final~~ 43745
~~determination of whether an applicant meets a condition for~~ 43746
~~eligibility under division (A)(2)(a), (b), (c), (e), or (f) of~~ 43747
~~section 5115.01 of the Revised Code. The department shall make the~~ 43748
~~final determination of whether an applicant meets a condition of~~ 43749
~~eligibility under division (A)(2)(d) of section 5115.01 of the~~ 43750
~~Revised Code.~~ 43751

(B) If the department requires county departments to perform administrative functions under this section, the director shall adopt rules in accordance with section 111.15 of the Revised Code governing the performance of the functions to be performed by county departments. County departments shall perform the functions in accordance with the rules. The director shall conduct investigations to determine whether disability financial assistance is being administered in compliance with the Revised Code and rules adopted by the director.

(C) If disability financial assistance payments ~~or medical services reimbursements~~ are made by the county department of job and family services, the department shall advance sufficient funds to provide the county treasurer with the amount estimated for the payments ~~or reimbursements~~. Financial assistance payments shall be distributed in accordance with sections 117.45, 319.16, and 329.03 of the Revised Code.

Sec. 5115.05. (A) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code establishing application and verification procedures, reapplication procedures, and ~~income, resource, citizenship, age, residence, living arrangement, assistance group composition, and other eligibility requirements~~ the director considers necessary in the administration of the application process for disability financial assistance. The rules may ~~provide for disregarding amounts of earned and unearned income for the purpose of determining whether an assistance group is eligible for assistance and the amount of assistance provided under this chapter. The rules also may provide that the income and resources, or a certain amount of the income and resources, of a member of an assistance group's family group will be included in determining whether the assistance group is eligible for aid and the amount of aid~~

~~provided under this chapter.~~ 43783

~~If financial assistance under this chapter is to be paid by the auditor of state through the medium of direct deposit, the application shall be accompanied by information the auditor needs to make direct deposits.~~ 43784
43785
43786
43787

~~The department of job and family services may require recipients of disability financial assistance to participate in a reapplication process two months after initial approval for assistance has been determined and at such other times as specified in the department requires rules.~~ 43788
43789
43790
43791
43792

~~If a recipient of disability assistance, or the spouse of or member of the assistance group of a recipient, becomes possessed of resources or income in excess of the amount allowed under rules adopted under this section, or if other changes occur that affect the person's eligibility or need for assistance, the recipient shall notify the department or county department of job and family services within the time limits specified in the rules. Failure of a recipient to report possession of excess resources or income or a change affecting eligibility or need within those time limits shall be considered prima facie evidence of intent to defraud under section 5115.15 of the Revised Code.~~ 43793
43794
43795
43796
43797
43798
43799
43800
43801
43802
43803

~~Each applicant for or recipient of disability assistance shall make reasonable efforts to secure support from persons responsible for the applicant's or recipient's support, and from other sources, as a means of preventing or reducing the provision of disability assistance at public expense. The department or county department may provide assistance to the applicant or recipient in securing other forms of financial or medical assistance.~~ 43804
43805
43806
43807
43808
43809
43810
43811

~~Notwithstanding section 3109.01 of the Revised Code, when a disability assistance applicant or recipient who is at least~~ 43812
43813

~~eighteen but under twenty two years of age resides with the
applicant's or recipient's parents, the income of the parents
shall be taken into account in determining the applicant's or
recipient's financial eligibility. The director shall adopt rules
for determining the amount of income to be attributed to the
assistance group of applicants in this age category.~~

(B) Any person who applies for disability financial
assistance ~~under this section~~ shall receive a voter registration
application under section 3503.10 of the Revised Code.

Sec. ~~5115.07~~ 5115.06. ~~Financial assistance~~ Assistance under
the disability financial assistance program may be given by
warrant, direct deposit, or, if provided by the director of job
and family services pursuant to section 5101.33 of the Revised
Code, by electronic benefit transfer. It shall be inalienable
whether by way of assignment, charge, or otherwise, and is exempt
from attachment, garnishment, or other like process. ~~Any~~

Any direct deposit shall be made to a financial institution
and account designated by the recipient. ~~The~~ If disability
financial assistance is to be paid by the auditor of state through
direct deposit, the application for assistance shall be
accompanied by information the auditor needs to make direct
deposits.

The director of job and family services may adopt rules for
designation of financial institutions and accounts. ~~No~~

No financial institution shall impose any charge for direct
deposit of disability ~~assistance~~ financial assistance payments
that it does not charge all customers for similar services.

~~The department of job and family services shall establish
financial assistance payment amounts based on state
appropriations.~~

~~Disability assistance may be given to persons living in their own homes or other suitable quarters, but shall not be given to persons who reside in a county home, city infirmary, jail, or public institution. Disability assistance shall not be given to an unemancipated child unless the child lives with the child's parents, guardians, or other persons standing in place of parents. For the purpose of this section, a child is emancipated if the child is married, serving in the armed forces, or has been emancipated by court order.~~

~~No person shall be eligible for disability assistance if, for the purpose of avoiding consideration of property in determinations of the person's eligibility for disability assistance or a greater amount of assistance, the person has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability assistance.~~

Sec. ~~5115.13~~ 5115.07. The acceptance of ~~disability~~ financial assistance under ~~this chapter~~ the disability financial assistance program constitutes an assignment to the department of job and family services of any rights an individual receiving ~~disability~~ the assistance has to financial support from any other person, ~~excluding medical support assigned pursuant to section 5101.59 of the Revised Code.~~ The rights to support assigned to the department pursuant to this section constitute an obligation of the person responsible for providing the support to the state for the amount of disability financial assistance payments to the recipient or recipients whose needs are included in determining the amount of ~~disability~~ assistance received. Support payments assigned to the state pursuant to this section shall be collected by the county department of job and family services and reimbursements for disability financial assistance payments shall be credited to the

state treasury. 43875

~~Sec. 5115.10. (A) The director of job and family services shall establish a disability assistance medical assistance program shall consist of a system of managed primary care. Until July 1, 1992, the program shall also include limited hospital services, except that if prior to that date hospitals are required by section 5112.17 of the Revised Code to provide medical services without charge to persons specified in that section, the program shall cease to include hospital services at the time the requirement of section 5112.17 of the Revised Code takes effect.~~ 43876
43877
43878
43879
43880
43881
43882
43883
43884

~~The department of job and family services may require disability assistance medical assistance recipients to enroll in health insuring corporations or other managed care programs, or may limit the number or type of health care providers from which a recipient may receive services.~~ 43885
43886
43887
43888
43889

~~The director of job and family services shall adopt rules governing the disability assistance medical assistance program established under this division. The rules shall specify all of the following:~~ 43890
43891
43892
43893

~~(1) Services that will be provided under the system of managed primary care;~~ 43894
43895

~~(2) Hospital services that will be provided during the period that hospital services are provided under the program;~~ 43896
43897

~~(3) The maximum authorized amount, scope, duration, or limit of payment for services.~~ 43898
43899

~~(B) The director of job and family services shall designate medical services providers for the disability assistance medical assistance program. The first such designation shall be made not later than September 30, 1991. Services under the program shall be provided only by providers designated by the director. The~~ 43900
43901
43902
43903
43904

~~director may require that, as a condition of being designated a disability assistance medical assistance provider, a provider enter into a provider agreement with the state department.~~ 43905
43906
43907

~~(C) As long as the disability assistance medical assistance program continues to include hospital services, the department or a county director of job and family services may, pursuant to rules adopted under this section, approve an application for disability assistance medical assistance for emergency inpatient hospital services when care has been given to a person who had not completed a sworn application for disability assistance at the time the care was rendered, if all of the following apply:~~ 43908
43909
43910
43911
43912
43913
43914
43915

~~(1) The person files an application for disability assistance within sixty days after being discharged from the hospital or, if the conditions of division (D) of this section are met, while in the hospital;~~ 43916
43917
43918
43919

~~(2) The person met all eligibility requirements for disability assistance at the time the care was rendered;~~ 43920
43921

~~(3) The care given to the person was a medical service within the scope of disability assistance medical assistance as established under rules adopted by the director of job and family services.~~ 43922
43923
43924
43925

~~(D) If a person files an application for disability assistance medical assistance for emergency inpatient hospital services while in the hospital, a face to face interview shall be conducted with the applicant while the applicant is in the hospital to determine whether the applicant is eligible for the assistance. If the hospital agrees to reimburse the county department of job and family services for all actual costs incurred by the department in conducting the interview, the interview shall be conducted by an employee of the county department. If, at the request of the hospital, the county~~ 43926
43927
43928
43929
43930
43931
43932
43933
43934
43935

~~department designates an employee of the hospital to conduct the interview, the interview shall be conducted by the hospital employee.~~ 43936
43937
43938

~~(E) The department of job and family services may assume responsibility for peer review of expenditures for disability assistance medical assistance (B) Subject to all other eligibility requirements established by this chapter and the rules adopted under it for the disability medical assistance program, a person may be eligible for disability medical assistance only if the person is medication dependent, as determined by the department of job and family services.~~ 43939
43940
43941
43942
43943
43944
43945
43946

(C) The director shall adopt rules under section 111.15 of the Revised Code for purposes of implementing division (B) of this section. The rules may specify or establish any or all of the following: 43947
43948
43949
43950

(1) Standards for determining whether a person is medication dependent, including standards under which a person may qualify as being medication dependent only if it is determined that both of the following are the case: 43951
43952
43953
43954

(a) The person is receiving ongoing treatment for a chronic medical condition that requires continuous prescription medication for an indefinite, long-term period of time; 43955
43956
43957

(b) Loss of the medication would result in a significant risk of medical emergency and loss of employability lasting at least nine months. 43958
43959
43960

(2) A requirement that a person's medical condition be certified by an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; 43961
43962
43963
43964

(3) Limitations on the chronic medical conditions and prescription medications that may qualify a person as being 43965
43966

medication dependent. 43967

~~Sec. 5115.11. If a member of an assistance group receiving~~ 43968
~~disability assistance under this chapter~~ An individual who 43969
qualifies for the medical assistance program established under 43970
Chapter 5111. of the Revised Code, ~~the member~~ shall receive 43971
medical assistance through that program rather than through the 43972
disability ~~assistance~~ medical assistance program. 43973

An individual is ineligible for disability medical assistance 43974
if, for the purpose of avoiding consideration of property in 43975
determinations of the individual's eligibility for disability 43976
medical assistance or a greater amount of assistance, the person 43977
has transferred property during the two years preceding 43978
application for or most recent redetermination of eligibility for 43979
disability medical assistance. 43980

Sec. 5115.12. (A) The director of job and family services 43981
shall adopt rules in accordance with section 111.15 of the Revised 43982
Code governing the disability medical assistance program. The 43983
rules may establish or specify any or all of the following: 43984

(1) Income, resource, citizenship, age, residence, living 43985
arrangement, and other eligibility requirements; 43986

(2) Health services to be included in the program; 43987

(3) The maximum authorized amount, scope, duration, or limit 43988
of payment for services; 43989

(4) Limits on the length of time an individual may receive 43990
disability medical assistance; 43991

(5) Limits on the total number of individuals in the state 43992
who may receive disability medical assistance. 43993

(B) For purposes of limiting the cost of the disability 43994
medical assistance program, the director may do either of the 43995

following: 43996

(1) Adopt rules in accordance with section 111.15 of the 43997
Revised Code that revise the program's eligibility requirements; 43998
the maximum authorized amount, scope, duration, or limit of 43999
payment for services included in the program; or any other 44000
requirement or standard established or specified by rules adopted 44001
under division (A) of this section or under section 5115.10 of the 44002
Revised Code; 44003

(2) Suspend acceptance of new applications for disability 44004
medical assistance. While a suspension is in effect, new 44005
eligibility determinations shall cease except for persons who 44006
submitted applications prior to the suspension's effective date, 44007
and no person shall be found eligible to receive disability 44008
medical assistance who was not a recipient during the month 44009
immediately preceding the suspension's effective date. The 44010
director may adopt rules in accordance with section 111.15 of the 44011
Revised Code establishing requirements and specifying procedures 44012
applicable to the suspension of acceptance of new applications. 44013

Sec. 5115.13. (A) The department of job and family services 44014
shall supervise and administer the disability medical program, 44015
except as follows: 44016

(1) The department may require county departments of job and 44017
family services to perform any administrative function specified 44018
in rules adopted by the director of job and family services. 44019

(2) The director may contract with any private or public 44020
entity in this state to perform any administrative function or to 44021
administer any or all of the program. 44022

(B) If the department requires county departments to perform 44023
administrative functions, the director of job and family services 44024
shall adopt rules in accordance with section 111.15 of the Revised 44025

Code governing the performance of the functions to be performed by 44026
county departments. County departments shall perform the functions 44027
in accordance with the rules. 44028

If the director contracts with a private or public entity to 44029
perform administrative functions or to administer any or all of 44030
the program, the director may either adopt rules in accordance 44031
with section 111.15 of the Revised Code or include provisions in 44032
the contract governing the performance of the functions by the 44033
private or public entity. Entities under contract shall perform 44034
the functions in accordance with the requirements established by 44035
the director. 44036

(C) Whenever division (A)(1) or (2) of this section is 44037
implemented, the director shall conduct investigations to 44038
determine whether disability medical assistance is being 44039
administered in compliance with the Revised Code and rules adopted 44040
by the director or in accordance with the terms of the contract. 44041

Sec. 5115.14. (A) The director of job and family services 44042
shall adopt rules in accordance with section 111.15 of the Revised 44043
Code establishing application and verification procedures, 44044
reapplication procedures, and other requirements the director 44045
considers necessary in the administration of the application 44046
process for disability medical assistance. 44047

(B) Any person who applies for disability medical assistance 44048
shall receive a voter registration application under section 44049
3503.10 of the Revised Code. 44050

Sec. 5115.20. (A) The department of job and family services 44051
shall establish a disability advocacy program and each county 44052
department of job and family services shall establish a disability 44053
advocacy program unit or join with other county departments of job 44054
and family services to establish a joint county disability 44055

advocacy program unit. Through the program the department and 44056
county departments shall cooperate in efforts to assist applicants 44057
for and recipients of assistance under ~~this chapter~~ the disability 44058
financial assistance program and the disability medical assistance 44059
program, who might be eligible for supplemental security income 44060
benefits under Title XVI of the "Social Security Act," 86 Stat. 44061
1475 (1972), 42 U.S.C.A. 1383, as amended, in applying for those 44062
benefits. ~~The~~ 44063

As part of their disability advocacy programs, the state 44064
department and county departments may enter into contracts for the 44065
~~services to applicants for and recipients of assistance under this~~ 44066
~~chapter who might be eligible for supplemental security income~~ 44067
~~benefits with~~ of persons and governmental government entities that 44068
in the judgment of the department or county department have 44069
demonstrated expertise in representing persons seeking 44070
supplemental security income benefits. Each contract shall require 44071
the person or entity with which a department contracts to assess 44072
each person referred to it by the department to determine whether 44073
the person appears to be eligible for supplemental security income 44074
benefits, and, if the person appears to be eligible, assist the 44075
person in applying and represent the person in any proceeding of 44076
the social security administration, including any appeal or 44077
reconsideration of a denial of benefits. The department or county 44078
department shall provide to the person or entity with which it 44079
contracts all records in its possession relevant to the 44080
application for supplemental security income benefits. The 44081
department shall require a county department with relevant records 44082
to submit them to the person or entity. 44083

(B) Each applicant for or recipient of disability financial 44084
assistance or disability medical assistance ~~under this chapter~~ 44085
who, in the judgment of the department or a county department 44086
might be eligible for supplemental security benefits, ~~must~~ shall, 44087

as a condition of eligibility for assistance, apply for such 44088
benefits if directed to do so by the department or county 44089
department. 44090

(C) ~~Each~~ With regard to applicants for and recipients of 44091
disability financial assistance or disability medical assistance, 44092
each county department of job and family services shall do all of 44093
the following: 44094

(1) Identify applicants ~~for~~ and recipients of ~~assistance~~ 44095
~~under this chapter~~ who might be eligible for supplemental security 44096
income benefits; 44097

(2) Assist applicants ~~for~~ and recipients of ~~assistance under~~ 44098
~~this chapter~~ in securing documentation of disabling conditions or 44099
refer them for such assistance to a person or government ~~agency~~ 44100
entity with which the department or county department has 44101
contracted under division (A) of this section; 44102

(3) Inform applicants ~~for~~ and recipients of ~~assistance under~~ 44103
~~this chapter~~ of available sources of representation, which may 44104
include a person or government entity with which the department or 44105
county department has contracted under division (A) of this 44106
section, and of their right to represent themselves in 44107
reconsiderations and appeals of social security administration 44108
decisions that deny them supplemental security income benefits. 44109
The county department may require the applicants and recipients, 44110
as a condition of eligibility for assistance, to pursue 44111
reconsiderations and appeals of social security administration 44112
decisions that deny them supplemental security income benefits, 44113
and shall assist applicants and recipients as necessary to obtain 44114
such benefits or refer them to a person or government ~~agency~~ 44115
entity with which the department or county department has 44116
contracted under division (A) of this section. 44117

(4) Require applicants ~~for~~ and recipients of ~~assistance under~~ 44118

~~this chapter~~ who, in the judgment of the county department, are or 44119
may be aged, blind, or disabled, to apply for medical assistance 44120
under Chapter 5111. of the Revised Code, make determinations when 44121
appropriate as to eligibility for medical assistance, and refer 44122
their applications when necessary to the disability determination 44123
unit established in accordance with division (F) of this section 44124
for expedited review; 44125

(5) Require each applicant ~~for~~ and ~~each~~ recipient of 44126
~~assistance under this chapter~~ who in the judgment of the 44127
department or the county department might be eligible for 44128
supplemental security income benefits, as a condition of 44129
eligibility for disability financial assistance or disability 44130
medical assistance ~~under this chapter~~, to execute a written 44131
authorization for the secretary of health and human services to 44132
withhold benefits due that individual and pay to the director of 44133
job and family services or the director's designee an amount 44134
sufficient to reimburse the state and county shares of interim 44135
assistance furnished to the individual. For the purposes of 44136
division (C)(5) of this section, "benefits" and "interim 44137
assistance" have the meanings given in Title XVI of the "Social 44138
Security Act." 44139

(D) The director of job and family services shall adopt rules 44140
in accordance with ~~Chapter 119.~~ section 111.15 of the Revised Code 44141
for the effective administration of the disability advocacy 44142
program. The rules shall include all of the following: 44143

(1) Methods to be used in collecting information from and 44144
disseminating it to county departments, including the following: 44145

(a) The number of individuals in the county who are disabled 44146
recipients of disability financial assistance or disability 44147
medical assistance ~~under this chapter in the county;~~ 44148

(b) The final decision made either by the social security 44149

administration or by a court for each application or 44150
reconsideration in which an individual was assisted pursuant to 44151
this section. 44152

(2) The type and process of training to be provided by the 44153
department of job and family services to the employees of the 44154
county department of job and family services who perform duties 44155
under this section; 44156

(3) Requirements for the written authorization required by 44157
division (C)(5) of this section. 44158

(E) The department shall provide basic and continuing 44159
training to employees of the county department of job and family 44160
services who perform duties under this section. Training shall 44161
include but not be limited to all processes necessary to obtain 44162
federal disability benefits, and methods of advocacy. 44163

(F) The department shall establish a disability determination 44164
unit and develop guidelines for expediting reviews of applications 44165
for medical assistance under Chapter 5111. of the Revised Code for 44166
persons who have been referred to the unit under division (C)(4) 44167
of this section. The department shall make determinations of 44168
eligibility for medical assistance for any such person within the 44169
time prescribed by federal regulations. 44170

(G) The department may, under rules the director of job and 44171
family services adopts in accordance with section 111.15 of the 44172
Revised Code, pay a portion of the federal reimbursement described 44173
in division (C)(5) of this section to persons or ~~agencies~~ 44174
government entities that assist or represent assistance recipients 44175
in reconsiderations and appeals of social security administration 44176
decisions denying them supplemental security income benefits. 44177

(H) The director shall conduct investigations to determine 44178
whether disability advocacy programs are being administered in 44179
compliance with the Revised Code and the rules adopted by the 44180

director pursuant to this section. 44181

Sec. 5115.22. (A) If a recipient of disability financial 44182
assistance or disability medical assistance, or an individual 44183
whose income and resources are included in determining the 44184
recipient's eligibility for the assistance, becomes possessed of 44185
resources or income in excess of the amount allowed to retain 44186
eligibility, or if other changes occur that affect the recipient's 44187
eligibility or need for assistance, the recipient shall notify the 44188
state or county department of job and family services within the 44189
time limits specified in rules adopted by the director of job and 44190
family services in accordance with section 111.15 of the Revised 44191
Code. Failure of a recipient to report possession of excess 44192
resources or income or a change affecting eligibility or need 44193
within those time limits shall be considered prima-facie evidence 44194
of intent to defraud under section 5115.23 of the Revised Code. 44195

(B) As a condition of eligibility for disability financial 44196
assistance or disability medical assistance, and as a means of 44197
preventing or reducing the provision of assistance at public 44198
expense, each applicant for or recipient of the assistance shall 44199
make reasonable efforts to secure support from persons responsible 44200
for the applicant's or recipient's support, and from other 44201
sources, including any federal program designed to provide 44202
assistance to individuals with disabilities. The state or county 44203
department of job and family services may provide assistance to 44204
the applicant or recipient in securing other forms of financial 44205
assistance. 44206

Sec. ~~5115.15~~ 5115.23. As used in this section, "erroneous 44207
payments" means disability financial assistance payments, 44208
~~including~~ or disability ~~assistance~~ medical assistance payments, 44209
made to persons who are not entitled to receive them, including 44210
payments made as a result of misrepresentation or fraud, and 44211

payments made due to an error by the recipient or by the county 44212
department of job and family services that made the payment. 44213

The department of job and family services shall adopt rules 44214
in accordance with section 111.15 of the Revised Code specifying 44215
the circumstances under which action is to be taken under this 44216
section to recover erroneous payments. The department, or a county 44217
department of job and family services at the request of the 44218
department, shall take action to recover erroneous payments in the 44219
circumstances specified in the rules. The department or county 44220
department may institute a civil action to recover erroneous 44221
payments. 44222

Whenever disability financial assistance or disability 44223
medical assistance has been furnished to a recipient for whose 44224
support another person is responsible, the other person shall, in 44225
addition to the liability otherwise imposed, as a consequence of 44226
failure to support the recipient, be liable for all ~~disability~~ 44227
assistance furnished the recipient. The value of the assistance so 44228
furnished may be recovered in a civil action brought by the county 44229
department of job and family services. 44230

Each county department of job and family services shall 44231
retain fifty per cent of the erroneous payments it recovers under 44232
this section. The department of job and family services shall 44233
receive the remaining fifty per cent. 44234

Sec. 5119.61. Any provision in this chapter that refers to a 44235
board of alcohol, drug addiction, and mental health services also 44236
refers to the community mental health board in an alcohol, drug 44237
addiction, and mental health service district that has a community 44238
mental health board. 44239

The director of mental health with respect to all facilities 44240
and programs established and operated under Chapter 340. of the 44241
Revised Code for mentally ill and emotionally disturbed persons, 44242

shall do all of the following: 44243

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 44244
that may be necessary to carry out the purposes of Chapter 340. 44245
and sections 5119.61 to 5119.63 of the Revised Code. 44246

(1) The rules shall include all of the following: 44247

(a) Rules governing a community mental health agency's 44248
services under section 340.091 of the Revised Code to an 44249
individual referred to the agency under division (C)(2) of section 44250
173.35 of the Revised Code; 44251

(b) For the purpose of division (A)(16) of section 340.03 of 44252
the Revised Code, rules governing the duties of mental health 44253
agencies and boards of alcohol, drug addiction, and mental health 44254
services under section 3722.18 of the Revised Code regarding 44255
referrals of individuals with mental illness or severe mental 44256
disability to adult care facilities and effective arrangements for 44257
ongoing mental health services for the individuals. The rules 44258
shall do at least the following: 44259

(i) Provide for agencies and boards to participate fully in 44260
the procedures owners and managers of adult care facilities must 44261
follow under division (A)(2) of section 3722.18 of the Revised 44262
Code; 44263

(ii) Specify the manner in which boards are accountable for 44264
ensuring that ongoing mental health services are effectively 44265
arranged for individuals with mental illness or severe mental 44266
disability who are referred by the board or mental health agency 44267
under contract with the board to an adult care facility. 44268

(c) Rules governing a board of alcohol, drug addiction, and 44269
mental health services when making a report to the director of 44270
health under section 3722.17 of the Revised Code regarding the 44271
quality of care and services provided by an adult care facility to 44272
a person with mental illness or a severe mental disability. 44273

(2) Rules may be adopted to govern the method of paying a 44274
community mental health facility ~~described, as defined in division~~ 44275
~~(B) of~~ section 5111.022 of the Revised Code, for providing 44276
services ~~established by~~ listed in division (A)(B) of that section. 44277
Such rules must be consistent with the contract entered into 44278
between the departments of job and family services and mental 44279
health under ~~division (E) of that~~ section 5111.91 of the Revised 44280
Code and include requirements ensuring appropriate service 44281
utilization. 44282

(B) Review and evaluate, and, taking into account the 44283
findings and recommendations of the board of alcohol, drug 44284
addiction, and mental health services of the district served by 44285
the program and the requirements and priorities of the state 44286
mental health plan, including the needs of residents of the 44287
district now residing in state mental institutions, approve and 44288
allocate funds to support community programs, and make 44289
recommendations for needed improvements to boards of alcohol, drug 44290
addiction, and mental health services; 44291

(C) Withhold state and federal funds for any program, in 44292
whole or in part, from a board of alcohol, drug addiction, and 44293
mental health services in the event of failure of that program to 44294
comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, 44295
or 5119.62 of the Revised Code or rules of the department of 44296
mental health. The director shall identify the areas of 44297
noncompliance and the action necessary to achieve compliance. The 44298
director shall offer technical assistance to the board to achieve 44299
compliance. The director shall give the board a reasonable time 44300
within which to comply or to present its position that it is in 44301
compliance. Before withholding funds, a hearing shall be conducted 44302
to determine if there are continuing violations and that either 44303
assistance is rejected or the board is unable to achieve 44304
compliance. Subsequent to the hearing process, if it is determined 44305

that compliance has not been achieved, the director may allocate 44306
all or part of the withheld funds to a public or private agency to 44307
provide the services not in compliance until the time that there 44308
is compliance. The director shall establish rules pursuant to 44309
Chapter 119. of the Revised Code to implement this division. 44310

(D) Withhold state or federal funds from a board of alcohol, 44311
drug addiction, and mental health services that denies available 44312
service on the basis of religion, race, color, creed, sex, 44313
national origin, age, disability as defined in section 4112.01 of 44314
the Revised Code, developmental disability, or the inability to 44315
pay; 44316

(E) Provide consultative services to community mental health 44317
agencies with the knowledge and cooperation of the board of 44318
alcohol, drug addiction, and mental health services; 44319

(F) Provide to boards of alcohol, drug addiction, and mental 44320
health services state or federal funds, in addition to those 44321
allocated under section 5119.62 of the Revised Code, for special 44322
programs or projects the director considers necessary but for 44323
which local funds are not available; 44324

(G) Establish criteria by which a board of alcohol, drug 44325
addiction, and mental health services reviews and evaluates the 44326
quality, effectiveness, and efficiency of services provided 44327
through its community mental health plan. The criteria shall 44328
include requirements ensuring appropriate service utilization. The 44329
department shall assess a board's evaluation of services and the 44330
compliance of each board with this section, Chapter 340. or 44331
section 5119.62 of the Revised Code, and other state or federal 44332
law and regulations. The department, in cooperation with the 44333
board, periodically shall review and evaluate the quality, 44334
effectiveness, and efficiency of services provided through each 44335
board. The department shall collect information that is necessary 44336
to perform these functions. 44337

(H) Develop and operate a community mental health information system. 44338
44339

Boards of alcohol, drug abuse, and mental health services 44340
shall submit information requested by the department in the form 44341
and manner prescribed by the department. Information collected by 44342
the department shall include, but not be limited to, all of the 44343
following: 44344

(1) Information regarding units of services provided in whole 44345
or in part under contract with a board, including diagnosis and 44346
special needs, demographic information, the number of units of 44347
service provided, past treatment, financial status, and service 44348
dates in accordance with rules adopted by the department in 44349
accordance with Chapter 119. of the Revised Code; 44350

(2) Financial information other than price or price-related 44351
data regarding expenditures of boards and community mental health 44352
agencies, including units of service provided, budgeted and actual 44353
expenses by type, and sources of funds. 44354

Boards shall submit the information specified in division 44355
(H)(1) of this section no less frequently than annually for each 44356
client, and each time the client's case is opened or closed. The 44357
department shall not collect any information for the purpose of 44358
identifying by name any person who receives a service through a 44359
board of alcohol, drug addiction, and mental health services, 44360
except as required by state or federal law to validate appropriate 44361
reimbursement. For the purposes of division (H)(1) of this 44362
section, the department shall use an identification system that is 44363
consistent with applicable nationally recognized standards. 44364

(I) Review each board's community mental health plan 44365
submitted pursuant to section 340.03 of the Revised Code and 44366
approve or disapprove it in whole or in part. Periodically, in 44367
consultation with representatives of boards and after considering 44368

the recommendations of the medical director, the director shall 44369
issue criteria for determining when a plan is complete, criteria 44370
for plan approval or disapproval, and provisions for conditional 44371
approval. The factors that the director considers may include, but 44372
are not limited to, the following: 44373

(1) The mental health needs of all persons residing within 44374
the board's service district, especially severely mentally 44375
disabled children, adolescents, and adults; 44376

(2) The demonstrated quality, effectiveness, efficiency, and 44377
cultural relevance of the services provided in each service 44378
district, the extent to which any services are duplicative of 44379
other available services, and whether the services meet the needs 44380
identified above; 44381

(3) The adequacy of the board's accounting for the 44382
expenditure of funds. 44383

If the director disapproves all or part of any plan, the 44384
director shall provide the board an opportunity to present its 44385
position. The director shall inform the board of the reasons for 44386
the disapproval and of the criteria that must be met before the 44387
plan may be approved. The director shall give the board a 44388
reasonable time within which to meet the criteria, and shall offer 44389
technical assistance to the board to help it meet the criteria. 44390

If the approval of a plan remains in dispute thirty days 44391
prior to the conclusion of the fiscal year in which the board's 44392
current plan is scheduled to expire, the board or the director may 44393
request that the dispute be submitted to a mutually agreed upon 44394
third-party mediator with the cost to be shared by the board and 44395
the department. The mediator shall issue to the board and the 44396
department recommendations for resolution of the dispute. Prior to 44397
the conclusion of the fiscal year in which the current plan is 44398
scheduled to expire, the director, taking into consideration the 44399

recommendations of the mediator, shall make a final determination 44400
and approve or disapprove the plan, in whole or in part. 44401

Sec. 5119.611. (A) A board of alcohol, drug addiction, and 44402
mental health services may not contract with a community mental 44403
health agency under division (A)(8)(a) of section 340.03 of the 44404
Revised Code to provide community mental health services included 44405
in the board's community mental health plan unless the services 44406
are certified by the director of mental health under this section. 44407

A community mental health agency that seeks the director's 44408
certification of its community mental health services shall submit 44409
an application to the director. On receipt of the application, the 44410
director may visit and shall evaluate the agency to determine 44411
whether its services satisfy the standards established by rules 44412
adopted under division (C) of this section. The director shall 44413
make the evaluation, and, if the director visits the agency, shall 44414
make the visit, in cooperation with the board of alcohol, drug 44415
addiction, and mental health services with which the agency seeks 44416
to contract. 44417

If the director determines that a community mental health 44418
agency's services satisfy the standards, the director shall 44419
certify the services. 44420

If the director determines that a community mental health 44421
agency's services do not satisfy the standards, the director shall 44422
identify the areas of noncompliance, specify what action is 44423
necessary to satisfy the standards, and offer technical assistance 44424
to the board of alcohol, drug addiction, and mental health 44425
services so that the board may assist the agency in satisfying the 44426
standards. The director shall give the agency a reasonable time 44427
within which to demonstrate that its services satisfy the 44428
standards or to bring the services into compliance with the 44429
standards. If the director concludes that the services continue to 44430

fail to satisfy the standards, the director may request that the board reallocate the funds for the community mental health services the agency was to provide to another community mental health agency whose community mental health services satisfy the standards. If the board does not reallocate those funds in a reasonable period of time, the director may withhold state and federal funds for the community mental health services and allocate those funds directly to a community mental health agency whose community mental health services satisfy the standards.

(B) Each community mental health agency seeking certification of its community mental health services under this section shall pay a fee for the certification review required by this section. Fees shall be paid into the sale of goods and services fund created pursuant to section 5119.161 of the Revised Code.

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

(1) Establish certification standards for community mental health services, including assertive community treatment and intensive home-based mental health services, that are consistent with nationally recognized applicable standards and facilitate participation in federal assistance programs. The rules shall include as certification standards only requirements that improve the quality of services or the health and safety of clients of community mental health services. The standards shall address at a minimum all of the following:

(a) Reporting major unusual incidents to the director;

(b) Procedures for applicants for and clients of community mental health services to file grievances and complaints;

(c) Seclusion;

(d) Restraint;

(e) Development of written policies addressing the rights of clients, including all of the following:	44462 44463
(i) The right to a copy of the written policies addressing client rights;	44464 44465
(ii) The right at all times to be treated with consideration and respect for the client's privacy and dignity;	44466 44467
(iii) The right to have access to the client's own psychiatric, medical, or other treatment records unless access is specifically restricted in the client's treatment plan for clear treatment reasons;	44468 44469 44470 44471
(iv) The right to have a client rights officer provided by the agency or board of alcohol, drug addiction, and mental health services advise the client of the client's rights, including the client's rights under Chapter 5122. of the Revised Code if the client is committed to the agency or board.	44472 44473 44474 44475 44476
(2) Establish standards for qualifications of mental health professionals as defined in section 340.02 of the Revised Code and personnel who provide the community mental health services;	44477 44478 44479
(3) Establish the process for certification of community mental health services;	44480 44481
(4) Set the amount of certification review fees based on a portion of the cost of performing the review;	44482 44483
(5) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds.	44484 44485
<u>(D) The rules adopted under division (C)(1) of this section to establish certification standards for assertive community treatment and intensive home-based mental health services shall be adopted not later than July 1, 2004.</u>	44486 44487 44488 44489
Sec. 5123.01. As used in this chapter:	44490

(A) "Chief medical officer" means the licensed physician 44491
appointed by the managing officer of an institution for the 44492
mentally retarded with the approval of the director of mental 44493
retardation and developmental disabilities to provide medical 44494
treatment for residents of the institution. 44495

(B) "Chief program director" means a person with special 44496
training and experience in the diagnosis and management of the 44497
mentally retarded, certified according to division (C) of this 44498
section in at least one of the designated fields, and appointed by 44499
the managing officer of an institution for the mentally retarded 44500
with the approval of the director to provide habilitation and care 44501
for residents of the institution. 44502

(C) "Comprehensive evaluation" means a study, including a 44503
sequence of observations and examinations, of a person leading to 44504
conclusions and recommendations formulated jointly, with 44505
dissenting opinions if any, by a group of persons with special 44506
training and experience in the diagnosis and management of persons 44507
with mental retardation or a developmental disability, which group 44508
shall include individuals who are professionally qualified in the 44509
fields of medicine, psychology, and social work, together with 44510
such other specialists as the individual case may require. 44511

(D) "Education" means the process of formal training and 44512
instruction to facilitate the intellectual and emotional 44513
development of residents. 44514

(E) "Habilitation" means the process by which the staff of 44515
the institution assists the resident in acquiring and maintaining 44516
those life skills that enable the resident to cope more 44517
effectively with the demands of the resident's own person and of 44518
the resident's environment and in raising the level of the 44519
resident's physical, mental, social, and vocational efficiency. 44520
Habilitation includes but is not limited to programs of formal, 44521

structured education and training. 44522

(F) "Habilitation center services" means services provided by 44523
a habilitation center certified by the department of mental 44524
retardation and developmental disabilities under section 5123.041 44525
of the Revised Code and covered by the medicaid program pursuant 44526
to rules adopted under section 5111.041 of the Revised Code. 44527

(G) "Health officer" means any public health physician, 44528
public health nurse, or other person authorized or designated by a 44529
city or general health district. 44530

(H) "Home and community-based services" means medicaid-funded 44531
home and community-based services provided under a medicaid 44532
component the department of mental retardation and developmental 44533
disabilities administers pursuant to section 5111.871 of the 44534
Revised Code. 44535

(I) "Indigent person" means a person who is unable, without 44536
substantial financial hardship, to provide for the payment of an 44537
attorney and for other necessary expenses of legal representation, 44538
including expert testimony. 44539

(J) "Institution" means a public or private facility, or a 44540
part of a public or private facility, that is licensed by the 44541
appropriate state department and is equipped to provide 44542
residential habilitation, care, and treatment for the mentally 44543
retarded. 44544

(K) "Licensed physician" means a person who holds a valid 44545
certificate issued under Chapter 4731. of the Revised Code 44546
authorizing the person to practice medicine and surgery or 44547
osteopathic medicine and surgery, or a medical officer of the 44548
government of the United States while in the performance of the 44549
officer's official duties. 44550

(L) "Managing officer" means a person who is appointed by the 44551
director of mental retardation and developmental disabilities to 44552

be in executive control of an institution for the mentally 44553
retarded under the jurisdiction of the department. 44554

(M) "Medicaid" has the same meaning as in section 5111.01 of 44555
the Revised Code. 44556

(N) "Medicaid case management services" means case management 44557
services provided to an individual with mental retardation or 44558
other developmental disability that the state medicaid plan 44559
requires. 44560

(O) "Mentally retarded person" means a person having 44561
significantly subaverage general intellectual functioning existing 44562
concurrently with deficiencies in adaptive behavior, manifested 44563
during the developmental period. 44564

(P) "Mentally retarded person subject to institutionalization 44565
by court order" means a person eighteen years of age or older who 44566
is at least moderately mentally retarded and in relation to whom, 44567
because of the person's retardation, either of the following 44568
conditions exist: 44569

(1) The person represents a very substantial risk of physical 44570
impairment or injury to self as manifested by evidence that the 44571
person is unable to provide for and is not providing for the 44572
person's most basic physical needs and that provision for those 44573
needs is not available in the community; 44574

(2) The person needs and is susceptible to significant 44575
habilitation in an institution. 44576

(Q) "A person who is at least moderately mentally retarded" 44577
means a person who is found, following a comprehensive evaluation, 44578
to be impaired in adaptive behavior to a moderate degree and to be 44579
functioning at the moderate level of intellectual functioning in 44580
accordance with standard measurements as recorded in the most 44581
current revision of the manual of terminology and classification 44582
in mental retardation published by the American association on 44583

mental retardation. 44584

(R) As used in this division, "substantial functional 44585
limitation," "developmental delay," and "established risk" have 44586
the meanings established pursuant to section 5123.011 of the 44587
Revised Code. 44588

"Developmental disability" means a severe, chronic disability 44589
that is characterized by all of the following: 44590

(1) It is attributable to a mental or physical impairment or 44591
a combination of mental and physical impairments, other than a 44592
mental or physical impairment solely caused by mental illness as 44593
defined in division (A) of section 5122.01 of the Revised Code. 44594

(2) It is manifested before age twenty-two. 44595

(3) It is likely to continue indefinitely. 44596

(4) It results in one of the following: 44597

(a) In the case of a person under three years of age, at 44598
least one developmental delay or an established risk; 44599

(b) In the case of a person at least three years of age but 44600
under six years of age, at least two developmental delays or an 44601
established risk; 44602

(c) In the case of a person six years of age or older, a 44603
substantial functional limitation in at least three of the 44604
following areas of major life activity, as appropriate for the 44605
person's age: self-care, receptive and expressive language, 44606
learning, mobility, self-direction, capacity for independent 44607
living, and, if the person is at least sixteen years of age, 44608
capacity for economic self-sufficiency. 44609

(5) It causes the person to need a combination and sequence 44610
of special, interdisciplinary, or other type of care, treatment, 44611
or provision of services for an extended period of time that is 44612
individually planned and coordinated for the person. 44613

(S) "Developmentally disabled person" means a person with a developmental disability.

(T) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.

(U) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, ~~disability~~ financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the state shall be considered as having legal settlement in the assistance area in which the person resides. No adult person coming into this state and having a spouse or minor children residing in another state shall obtain a legal settlement in this state as long as the spouse or minor children are receiving public assistance, care, or support at the expense of the other state or its subdivisions. For the purpose of determining the legal settlement of a person who is living in a public or private institution or in a home subject to licensing by the department of job and family services, the department of mental health, or the department of mental retardation and developmental disabilities, the residence of the person shall be considered as though the person were residing in the county in which the person was living prior to the person's entrance into the institution or home. Settlement once acquired shall continue until a person has been continuously absent from Ohio for a period of one year or has acquired a legal residence in another state. A woman who marries a man with legal settlement in any county immediately acquires the settlement of her husband. The legal settlement of a minor is that of the parents, surviving parent, sole parent, parent who is designated the residential parent and legal custodian by a court,

other adult having permanent custody awarded by a court, or 44646
guardian of the person of the minor, provided that: 44647

(1) A minor female who marries shall be considered to have 44648
the legal settlement of her husband and, in the case of death of 44649
her husband or divorce, she shall not thereby lose her legal 44650
settlement obtained by the marriage. 44651

(2) A minor male who marries, establishes a home, and who has 44652
resided in this state for one year without receiving general 44653
assistance prior to July 17, 1995, under former Chapter 5113. of 44654
the Revised Code, ~~disability~~ financial assistance under Chapter 44655
5115. of the Revised Code, or assistance from a private agency 44656
that maintains records of assistance given shall be considered to 44657
have obtained a legal settlement in this state. 44658

(3) The legal settlement of a child under eighteen years of 44659
age who is in the care or custody of a public or private child 44660
caring agency shall not change if the legal settlement of the 44661
parent changes until after the child has been in the home of the 44662
parent for a period of one year. 44663

No person, adult or minor, may establish a legal settlement 44664
in this state for the purpose of gaining admission to any state 44665
institution. 44666

(V)(1) "Resident" means, subject to division (R)(2) of this 44667
section, a person who is admitted either voluntarily or 44668
involuntarily to an institution or other facility pursuant to 44669
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 44670
Code subsequent to a finding of not guilty by reason of insanity 44671
or incompetence to stand trial or under this chapter who is under 44672
observation or receiving habilitation and care in an institution. 44673

(2) "Resident" does not include a person admitted to an 44674
institution or other facility under section 2945.39, 2945.40, 44675
2945.401, or 2945.402 of the Revised Code to the extent that the 44676

reference in this chapter to resident, or the context in which the 44677
reference occurs, is in conflict with any provision of sections 44678
2945.37 to 2945.402 of the Revised Code. 44679

(W) "Respondent" means the person whose detention, 44680
commitment, or continued commitment is being sought in any 44681
proceeding under this chapter. 44682

(X) "Working day" and "court day" mean Monday, Tuesday, 44683
Wednesday, Thursday, and Friday, except when such day is a legal 44684
holiday. 44685

(Y) "Prosecutor" means the prosecuting attorney, village 44686
solicitor, city director of law, or similar chief legal officer 44687
who prosecuted a criminal case in which a person was found not 44688
guilty by reason of insanity, who would have had the authority to 44689
prosecute a criminal case against a person if the person had not 44690
been found incompetent to stand trial, or who prosecuted a case in 44691
which a person was found guilty. 44692

(Z) "Court" means the probate division of the court of common 44693
pleas. 44694

Sec. 5123.051. (A) If the department of mental retardation 44695
and developmental disabilities determines ~~pursuant to an audit~~ 44696
~~conducted under section 5123.05 of the Revised Code or a~~ 44697
~~reconciliation conducted under section 5123.18 or 5111.252 of the~~ 44698
Revised Code that money is owed the state by a ~~provider of a~~ 44699
~~service person or program government entity~~, the department may 44700
enter into a payment agreement with the ~~provider person or~~ 44701
~~government entity for collection of the money owed the state.~~ The 44702
agreement shall include the following: 44703

(1) A schedule of installment payments whereby the money owed 44704
the state is to be paid in full within a reasonable period ~~not to~~ 44705
~~exceed one year;~~ 44706

(2) A provision that the ~~provider may pay~~ the entire balance 44707
owed may be paid at any time during the term of the agreement; 44708

(3) A provision that if any installment is not paid in full 44709
within forty-five days after it is due, the entire balance owed is 44710
immediately due and payable; 44711

(4) Any other terms and conditions that are agreed to by the 44712
department and the ~~provider~~ person or government entity. 44713

(B) The department may include a provision in a payment 44714
agreement that requires the ~~provider to pay~~ payment of interest on 44715
the money owed the state. The department, in its discretion, shall 44716
determine whether to require the payment of interest and, if it so 44717
requires, the rate of interest. Neither the obligation to pay 44718
interest nor the rate of interest is subject to negotiation 44719
between the department and the ~~provider~~ person or government
entity. 44720
44721

(C) If ~~the provider fails to pay~~ any installment is not paid 44722
in full within forty-five days after its due date, the department 44723
shall certify the entire balance owed to the attorney general for 44724
collection under section 131.02 of the Revised Code. ~~The To~~ 44725
satisfy a judgment secured by the attorney general, the department 44726
may withhold funds from any payments ~~made~~ it makes to a ~~provider~~ 44727
~~under section 5123.18 or 5111.252 of the Revised Code to satisfy a~~ 44728
~~judgment secured by the attorney general~~ person or government
entity. 44729
44730

(D) The purchase of service fund is hereby created. Money 44731
credited to the fund shall be used solely for purposes of section 44732
5123.05 of the Revised Code. 44733

Sec. 5123.19. (A) As used in this section and in sections 44734
5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.20 of 44735
the Revised Code: 44736

(1)(a) "Residential facility" means a home or facility in 44737
which a mentally retarded or developmentally disabled person 44738
resides, except the home of a relative or legal guardian in which 44739
a mentally retarded or developmentally disabled person resides, a 44740
respite care home certified under section 5126.05 of the Revised 44741
Code, a county home or district home operated pursuant to Chapter 44742
5155. of the Revised Code, or a dwelling in which the only 44743
mentally retarded or developmentally disabled residents are in an 44744
independent living arrangement or are being provided supported 44745
living. 44746

(b) "Intermediate care facility for the mentally retarded" 44747
means a residential facility that is considered an intermediate 44748
care facility for the mentally retarded for the purposes of 44749
Chapter 5111. of the Revised Code. 44750

(2) "Political subdivision" means a municipal corporation, 44751
county, or township. 44752

(3) "Independent living arrangement" means an arrangement in 44753
which a mentally retarded or developmentally disabled person 44754
resides in an individualized setting chosen by the person or the 44755
person's guardian, which is not dedicated principally to the 44756
provision of residential services for mentally retarded or 44757
developmentally disabled persons, and for which no financial 44758
support is received for rendering such service from any 44759
governmental agency by a provider of residential services. 44760

(4) "Supported living" has the same meaning as in section 44761
5126.01 of the Revised Code. 44762

(5) "Licensee" means the person or government agency that has 44763
applied for a license to operate a residential facility and to 44764
which the license was issued under this section. 44765

(B) Every person or government agency desiring to operate a 44766
residential facility shall apply for licensure of the facility to 44767

the director of mental retardation and developmental disabilities 44768
unless the residential facility is subject to section 3721.02, 44769
3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding 44770
Chapter 3721. of the Revised Code, a nursing home that is 44771
certified as an intermediate care facility for the mentally 44772
retarded under Title XIX of the "Social Security Act," 79 Stat. 44773
286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for 44774
licensure of the portion of the home that is certified as an 44775
intermediate care facility for the mentally retarded. 44776

(C) The Subject to section 5123.196 of the Revised Code, the 44777
director of mental retardation and developmental disabilities 44778
shall license the operation of residential facilities. An initial 44779
license shall be issued for a period that does not exceed one 44780
year, unless the director denies the license under division (D) of 44781
this section. A license shall be renewed for a period that does 44782
not exceed three years, unless the director refuses to renew the 44783
license under division (D) of this section. The director, when 44784
issuing or renewing a license, shall specify the period for which 44785
the license is being issued or renewed. A license remains valid 44786
for the length of the licensing period specified by the director, 44787
unless the license is terminated, revoked, or voluntarily 44788
surrendered. 44789

(D) If it is determined that an applicant or licensee is not 44790
in compliance with a provision of this chapter that applies to 44791
residential facilities or the rules adopted under such a 44792
provision, the director may deny issuance of a license, refuse to 44793
renew a license, terminate a license, revoke a license, issue an 44794
order for the suspension of admissions to a facility, issue an 44795
order for the placement of a monitor at a facility, issue an order 44796
for the immediate removal of residents, or take any other action 44797
the director considers necessary consistent with the director's 44798
authority under this chapter regarding residential facilities. In 44799

the director's selection and administration of the sanction to be 44800
imposed, all of the following apply: 44801

(1) The director may deny, refuse to renew, or revoke a 44802
license, if the director determines that the applicant or licensee 44803
has demonstrated a pattern of serious noncompliance or that a 44804
violation creates a substantial risk to the health and safety of 44805
residents of a residential facility. 44806

(2) The director may terminate a license if more than twelve 44807
consecutive months have elapsed since the residential facility was 44808
last occupied by a resident or a notice required by division (J) 44809
of this section is not given. 44810

(3) The director may issue an order for the suspension of 44811
admissions to a facility for any violation that may result in 44812
sanctions under division (D)(1) of this section and for any other 44813
violation specified in rules adopted under division (G)(2) of this 44814
section. If the suspension of admissions is imposed for a 44815
violation that may result in sanctions under division (D)(1) of 44816
this section, the director may impose the suspension before 44817
providing an opportunity for an adjudication under Chapter 119. of 44818
the Revised Code. The director shall lift an order for the 44819
suspension of admissions when the director determines that the 44820
violation that formed the basis for the order has been corrected. 44821

(4) The director may order the placement of a monitor at a 44822
residential facility for any violation specified in rules adopted 44823
under division (G)(2) of this section. The director shall lift the 44824
order when the director determines that the violation that formed 44825
the basis for the order has been corrected. 44826

(5) If the director determines that two or more residential 44827
facilities owned or operated by the same person or government 44828
entity are not being operated in compliance with a provision of 44829
this chapter that applies to residential facilities or the rules 44830

adopted under such a provision, and the director's findings are 44831
based on the same or a substantially similar action, practice, 44832
circumstance, or incident that creates a substantial risk to the 44833
health and safety of the residents, the director shall conduct a 44834
survey as soon as practicable at each residential facility owned 44835
or operated by that person or government entity. The director may 44836
take any action authorized by this section with respect to any 44837
facility found to be operating in violation of a provision of this 44838
chapter that applies to residential facilities or the rules 44839
adopted under such a provision. 44840

(6) When the director initiates license revocation 44841
proceedings, no opportunity for submitting a plan of correction 44842
shall be given. The director shall notify the licensee by letter 44843
of the initiation of such proceedings. The letter shall list the 44844
deficiencies of the residential facility and inform the licensee 44845
that no plan of correction will be accepted. The director shall 44846
also notify each affected resident, the resident's guardian if the 44847
resident is an adult for whom a guardian has been appointed, the 44848
resident's parent or guardian if the resident is a minor, and the 44849
county board of mental retardation and developmental disabilities. 44850

(7) Pursuant to rules which shall be adopted in accordance 44851
with Chapter 119. of the Revised Code, the director may order the 44852
immediate removal of residents from a residential facility 44853
whenever conditions at the facility present an immediate danger of 44854
physical or psychological harm to the residents. 44855

(8) In determining whether a residential facility is being 44856
operated in compliance with a provision of this chapter that 44857
applies to residential facilities or the rules adopted under such 44858
a provision, or whether conditions at a residential facility 44859
present an immediate danger of physical or psychological harm to 44860
the residents, the director may rely on information obtained by a 44861
county board of mental retardation and developmental disabilities 44862

or other governmental agencies. 44863

(9) In proceedings initiated to deny, refuse to renew, or 44864
revoke licenses, the director may deny, refuse to renew, or revoke 44865
a license regardless of whether some or all of the deficiencies 44866
that prompted the proceedings have been corrected at the time of 44867
the hearing. 44868

(E) The director shall establish a program under which public 44869
notification may be made when the director has initiated license 44870
revocation proceedings or has issued an order for the suspension 44871
of admissions, placement of a monitor, or removal of residents. 44872
The director shall adopt rules in accordance with Chapter 119. of 44873
the Revised Code to implement this division. The rules shall 44874
establish the procedures by which the public notification will be 44875
made and specify the circumstances for which the notification must 44876
be made. The rules shall require that public notification be made 44877
if the director has taken action against the facility in the 44878
eighteen-month period immediately preceding the director's latest 44879
action against the facility and the latest action is being taken 44880
for the same or a substantially similar violation of a provision 44881
of this chapter that applies to residential facilities or the 44882
rules adopted under such a provision. The rules shall specify a 44883
method for removing or amending the public notification if the 44884
director's action is found to have been unjustified or the 44885
violation at the residential facility has been corrected. 44886

(F)(1) Except as provided in division (F)(2) of this section, 44887
appeals from proceedings initiated to impose a sanction under 44888
division (D) of this section shall be conducted in accordance with 44889
Chapter 119. of the Revised Code. 44890

(2) Appeals from proceedings initiated to order the 44891
suspension of admissions to a facility shall be conducted in 44892
accordance with Chapter 119. of the Revised Code, unless the order 44893
was issued before providing an opportunity for an adjudication, in 44894

which case all of the following apply: 44895

(a) The licensee may request a hearing not later than ten 44896
days after receiving the notice specified in section 119.07 of the 44897
Revised Code. 44898

(b) If a timely request for a hearing is made, the hearing 44899
shall commence not later than thirty days after the department 44900
receives the request. 44901

(c) After commencing, the hearing shall continue 44902
uninterrupted, except for Saturdays, Sundays, and legal holidays, 44903
unless other interruptions are agreed to by the licensee and the 44904
director. 44905

(d) If the hearing is conducted by a hearing examiner, the 44906
hearing examiner shall file a report and recommendations not later 44907
than ten days after the close of the hearing. 44908

(e) Not later than five days after the hearing examiner files 44909
the report and recommendations, the licensee may file objections 44910
to the report and recommendations. 44911

(f) Not later than fifteen days after the hearing examiner 44912
files the report and recommendations, the director shall issue an 44913
order approving, modifying, or disapproving the report and 44914
recommendations. 44915

(g) Notwithstanding the pendency of the hearing, the director 44916
shall lift the order for the suspension of admissions when the 44917
director determines that the violation that formed the basis for 44918
the order has been corrected. 44919

(G) In accordance with Chapter 119. of the Revised Code, the 44920
director shall adopt and may amend and rescind rules for licensing 44921
and regulating the operation of residential facilities, including 44922
intermediate care facilities for the mentally retarded. The rules 44923
for intermediate care facilities for the mentally retarded may 44924

<u>differ from those for other residential facilities.</u> The rules	44925
shall establish and specify the following:	44926
(1) Procedures and criteria for issuing and renewing	44927
licenses, including procedures and criteria for determining the	44928
length of the licensing period that the director must specify for	44929
each license when it is issued or renewed;	44930
(2) Procedures and criteria for denying, refusing to renew,	44931
terminating, and revoking licenses and for ordering the suspension	44932
of admissions to a facility, placement of a monitor at a facility,	44933
and the immediate removal of residents from a facility;	44934
(3) Fees for issuing and renewing licenses;	44935
(4) Procedures for surveying residential facilities;	44936
(5) Requirements for the training of residential facility	44937
personnel;	44938
(6) Classifications for the various types of residential	44939
facilities;	44940
(7) Certification procedures for licensees and management	44941
contractors that the director determines are necessary to ensure	44942
that they have the skills and qualifications to properly operate	44943
or manage residential facilities;	44944
(8) The maximum number of persons who may be served in a	44945
particular type of residential facility;	44946
(9) Uniform procedures for admission of persons to and	44947
transfers and discharges of persons from residential facilities;	44948
(10) Other standards for the operation of residential	44949
facilities and the services provided at residential facilities;	44950
(11) Procedures for waiving any provision of any rule adopted	44951
under this section.	44952
(H) Before issuing a license, the director of the department	44953

or the director's designee shall conduct a survey of the 44954
residential facility for which application is made. The director 44955
or the director's designee shall conduct a survey of each licensed 44956
residential facility at least once during the period the license 44957
is valid and may conduct additional inspections as needed. A 44958
survey includes but is not limited to an on-site examination and 44959
evaluation of the residential facility, its personnel, and the 44960
services provided there. 44961

In conducting surveys, the director or the director's 44962
designee shall be given access to the residential facility; all 44963
records, accounts, and any other documents related to the 44964
operation of the facility; the licensee; the residents of the 44965
facility; and all persons acting on behalf of, under the control 44966
of, or in connection with the licensee. The licensee and all 44967
persons on behalf of, under the control of, or in connection with 44968
the licensee shall cooperate with the director or the director's 44969
designee in conducting the survey. 44970

Following each survey, unless the director initiates a 44971
license revocation proceeding, the director or the director's 44972
designee shall provide the licensee with a report listing any 44973
deficiencies, specifying a timetable within which the licensee 44974
shall submit a plan of correction describing how the deficiencies 44975
will be corrected, and, when appropriate, specifying a timetable 44976
within which the licensee must correct the deficiencies. After a 44977
plan of correction is submitted, the director or the director's 44978
designee shall approve or disapprove the plan. A copy of the 44979
report and any approved plan of correction shall be provided to 44980
any person who requests it. 44981

The director shall initiate disciplinary action against any 44982
department employee who notifies or causes the notification to any 44983
unauthorized person of an unannounced survey of a residential 44984
facility by an authorized representative of the department. 44985

(I) In addition to any other information which may be 44986
required of applicants for a license pursuant to this section, the 44987
director shall require each applicant to provide a copy of an 44988
approved plan for a proposed residential facility pursuant to 44989
section 5123.042 of the Revised Code. This division does not apply 44990
to renewal of a license. 44991

(J) A licensee shall notify the owner of the building in 44992
which the licensee's residential facility is located of any 44993
significant change in the identity of the licensee or management 44994
contractor before the effective date of the change if the licensee 44995
is not the owner of the building. 44996

Pursuant to rules which shall be adopted in accordance with 44997
Chapter 119. of the Revised Code, the director may require 44998
notification to the department of any significant change in the 44999
ownership of a residential facility or in the identity of the 45000
licensee or management contractor. If the director determines that 45001
a significant change of ownership is proposed, the director shall 45002
consider the proposed change to be an application for development 45003
by a new operator pursuant to section 5123.042 of the Revised Code 45004
and shall advise the applicant within sixty days of such 45005
notification that the current license shall continue in effect or 45006
a new license will be required pursuant to this section. If the 45007
director requires a new license, the director shall permit the 45008
facility to continue to operate under the current license until 45009
the new license is issued, unless the current license is revoked, 45010
refused to be renewed, or terminated in accordance with Chapter 45011
119. of the Revised Code. 45012

(K) A county board of mental retardation and developmental 45013
disabilities, the legal rights service, and any interested person 45014
may file complaints alleging violations of statute or department 45015
rule relating to residential facilities with the department. All 45016
complaints shall be in writing and shall state the facts 45017

constituting the basis of the allegation. The department shall not 45018
reveal the source of any complaint unless the complainant agrees 45019
in writing to waive the right to confidentiality or until so 45020
ordered by a court of competent jurisdiction. 45021

The department shall adopt rules in accordance with Chapter 45022
119. of the Revised Code establishing procedures for the receipt, 45023
referral, investigation, and disposition of complaints filed with 45024
the department under this division. 45025

(L) The department shall establish procedures for the 45026
notification of interested parties of the transfer or interim care 45027
of residents from residential facilities that are closing or are 45028
losing their license. 45029

(M) Before issuing a license under this section to a 45030
residential facility that will accommodate at any time more than 45031
one mentally retarded or developmentally disabled individual, the 45032
director shall, by first class mail, notify the following: 45033

(1) If the facility will be located in a municipal 45034
corporation, the clerk of the legislative authority of the 45035
municipal corporation; 45036

(2) If the facility will be located in unincorporated 45037
territory, the clerk of the appropriate board of county 45038
commissioners and the clerk of the appropriate board of township 45039
trustees. 45040

The director shall not issue the license for ten days after 45041
mailing the notice, excluding Saturdays, Sundays, and legal 45042
holidays, in order to give the notified local officials time in 45043
which to comment on the proposed issuance. 45044

Any legislative authority of a municipal corporation, board 45045
of county commissioners, or board of township trustees that 45046
receives notice under this division of the proposed issuance of a 45047
license for a residential facility may comment on it in writing to 45048

the director within ten days after the director mailed the notice, 45049
excluding Saturdays, Sundays, and legal holidays. If the director 45050
receives written comments from any notified officials within the 45051
specified time, the director shall make written findings 45052
concerning the comments and the director's decision on the 45053
issuance of the license. If the director does not receive written 45054
comments from any notified local officials within the specified 45055
time, the director shall continue the process for issuance of the 45056
license. 45057

(N) Any person may operate a licensed residential facility 45058
that provides room and board, personal care, habilitation 45059
services, and supervision in a family setting for at least six but 45060
not more than eight persons with mental retardation or a 45061
developmental disability as a permitted use in any residential 45062
district or zone, including any single-family residential district 45063
or zone, of any political subdivision. These residential 45064
facilities may be required to comply with area, height, yard, and 45065
architectural compatibility requirements that are uniformly 45066
imposed upon all single-family residences within the district or 45067
zone. 45068

(O) Any person may operate a licensed residential facility 45069
that provides room and board, personal care, habilitation 45070
services, and supervision in a family setting for at least nine 45071
but not more than sixteen persons with mental retardation or a 45072
developmental disability as a permitted use in any multiple-family 45073
residential district or zone of any political subdivision, except 45074
that a political subdivision that has enacted a zoning ordinance 45075
or resolution establishing planned unit development districts may 45076
exclude these residential facilities from such districts, and a 45077
political subdivision that has enacted a zoning ordinance or 45078
resolution may regulate these residential facilities in 45079
multiple-family residential districts or zones as a conditionally 45080

permitted use or special exception, in either case, under 45081
reasonable and specific standards and conditions set out in the 45082
zoning ordinance or resolution to: 45083

(1) Require the architectural design and site layout of the 45084
residential facility and the location, nature, and height of any 45085
walls, screens, and fences to be compatible with adjoining land 45086
uses and the residential character of the neighborhood; 45087

(2) Require compliance with yard, parking, and sign 45088
regulation; 45089

(3) Limit excessive concentration of these residential 45090
facilities. 45091

(P) This section does not prohibit a political subdivision 45092
from applying to residential facilities nondiscriminatory 45093
regulations requiring compliance with health, fire, and safety 45094
regulations and building standards and regulations. 45095

(Q) Divisions (N) and (O) of this section are not applicable 45096
to municipal corporations that had in effect on June 15, 1977, an 45097
ordinance specifically permitting in residential zones licensed 45098
residential facilities by means of permitted uses, conditional 45099
uses, or special exception, so long as such ordinance remains in 45100
effect without any substantive modification. 45101

(R)(1) The director may issue an interim license to operate a 45102
residential facility to an applicant for a license under this 45103
section if either of the following is the case: 45104

(a) The director determines that an emergency exists 45105
requiring immediate placement of persons in a residential 45106
facility, that insufficient licensed beds are available, and that 45107
the residential facility is likely to receive a permanent license 45108
under this section within thirty days after issuance of the 45109
interim license. 45110

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility. 45111
45112
45113

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license. 45114
45115
45116
45117
45118

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days. 45119
45120
45121

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses. 45122
45123
45124

(S) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of such rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of mental retardation and developmental disabilities and which is in the review process prior to April 4, 1986. 45125
45126
45127
45128
45129
45130
45131
45132
45133
45134

(T) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section. 45135
45136
45137
45138
45139

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for 45140
45141

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

(U) Except as provided in section 5123.196 of the Revised Code, whenever a resident of a residential facility is committed to a state-operated intermediate care facility for the mentally retarded pursuant to sections 5123.71 to 5123.76 of the Revised Code, the department shall reduce by one the maximum number of residents for which the facility is licensed.

Sec. 5123.196. (A) The director of mental retardation and developmental disabilities shall not issue a license under section 5123.19 of the Revised Code on or after July 1, 2003, if issuance will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

(B) The maximum number of beds for the purpose of division (A) of this section shall not exceed ten thousand eight hundred thirty-eight minus, except as provided in division (C) of this section, the number of such beds taken out of service on or after July 1, 2003, pursuant to section 5123.197 of the Revised Code or because a residential facility license is revoked, terminated, or not renewed for any reason or is surrendered.

(C) The director is not required to reduce the maximum number of beds pursuant to division (B) of this section by a bed taken out of service if the director determines that the bed is needed to provide services to an individual with mental retardation or a developmental disability who resided in the residential facility

in which the bed was located. 45173

(D) The director shall maintain an up-to-date written record 45174
of the maximum number of residential facility beds provided for by 45175
division (B) of this section. 45176

Sec. 5123.197. A licensee shall take out of service as a 45177
residential facility bed any bed located in the facility that is 45178
converted to use for supported living. The number of residential 45179
facility beds a residential facility is licensed to have shall be 45180
reduced by each bed taken out of service under this section. 45181

Sec. 5123.198. (A) Whenever a resident of an intermediate 45182
care facility for the mentally retarded is committed to a 45183
state-operated intermediate care facility for the mentally 45184
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 45185
Code, the department of mental retardation and developmental 45186
disabilities shall reduce by one the number of residents for which 45187
the facility in which the resident resided is licensed, unless the 45188
facility admits an individual who resides in a state-operated 45189
intermediate care facility for the mentally retarded on the date 45190
of the commitment or another individual determined to need the 45191
level of care provided by such a facility and designated by the 45192
department not later than ninety days after the date of the 45193
commitment. 45194

(B) The department of mental retardation and developmental 45195
disabilities may notify the department of job and family services 45196
of any reduction under this section in the number of residents for 45197
which a facility is licensed. On receiving the notice, the 45198
department of job and family services may transfer to the 45199
department of mental retardation and developmental disabilities 45200
the savings in the nonfederal share of medicaid expenditures for 45201
each fiscal year after the year of the commitment to be used for 45202

costs of the resident's care in the state-operated intermediate care facility for the mentally retarded. In determining the amount saved, the department of job and family services shall consider medicaid payments for the remaining residents of the facility in which the resident resided. 45203
45204
45205
45206
45207

Sec. ~~5111.252~~ 5123.199. (A) As used in this section: 45208

(1) "Contractor" means a person or government agency that has entered into a contract with the department of mental retardation and developmental disabilities under this section. 45209
45210
45211

(2) "Government agency" and "residential services" have the same meanings as in section 5123.18 of the Revised Code. 45212
45213

(3) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code. 45214
45215

(4) "Respite care services" has the same meaning as in section 5123.171 of the Revised Code. 45216
45217

(B) The department of mental retardation and developmental disabilities may enter into a contract with a person or government agency to do any of the following: 45218
45219
45220

(1) Provide residential services in an intermediate care facility for the mentally retarded to an individual who meets the criteria for admission to such a facility but is not eligible for assistance under ~~this chapter~~ Chapter 5111. of the Revised Code due to unliquidated assets subject to final probate action; 45221
45222
45223
45224
45225

(2) Provide respite care services in an intermediate care facility for the mentally retarded; 45226
45227

(3) Provide residential services in a facility for which the person or government agency has applied for, but has not received, certification and payment as an intermediate care facility for the mentally retarded if the person or government agency is making a good faith effort to bring the facility into compliance with 45228
45229
45230
45231
45232

requirements for certification and payment as an intermediate care 45233
facility for the mentally retarded. In assigning payment amounts 45234
to such contracts, the department shall take into account costs 45235
incurred in attempting to meet certification requirements. 45236

(4) Reimburse an intermediate care facility for the mentally 45237
retarded for costs not otherwise reimbursed under ~~this chapter~~ 45238
Chapter 5111. of the Revised Code for clothing for individuals who 45239
are mentally retarded or developmentally disabled. Reimbursement 45240
under such contracts shall not exceed a maximum amount per 45241
individual per year specified in rules that the department shall 45242
adopt in accordance with Chapter 119. of the Revised Code. 45243

(C) The amount paid to a contractor under divisions (B)(1) to 45244
(3) of this section shall not exceed the reimbursement that would 45245
be made under ~~this chapter~~ Chapter 5111. of the Revised Code by 45246
the department of job and family services for the same goods and 45247
services. 45248

(D) The department of mental retardation and developmental 45249
disabilities shall adopt rules as necessary to implement this 45250
section, including rules establishing standards and procedures for 45251
the submission of cost reports by contractors and the department's 45252
conduct of audits and reconciliations regarding the contracts. The 45253
rules shall be adopted in accordance with Chapter 119. of the 45254
Revised Code. 45255

Sec. 5123.38. (A) Except as provided in division (B) and (C) 45256
of this section, if an individual receiving supported living or 45257
home and community-based services, as defined in section 5126.01 45258
of the Revised Code, funded by a county board of mental 45259
retardation and developmental disabilities is committed to a 45260
state-operated intermediate care facility for the mentally 45261
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 45262
Code, the department of mental retardation and developmental 45263

disabilities shall use the funds otherwise allocated to the county board as the nonfederal share of medicaid expenditures for the individual's care in the state-operated facility. 45264
45265
45266

(B) Division (A) of this section does not apply if the county board, not later than ninety days after the date of the commitment of a person receiving supported services, commences funding of supported living for an individual who resides in a state-operated intermediate care facility for the mentally retarded on the date of the commitment or another eligible individual designated by the department. 45267
45268
45269
45270
45271
45272
45273

(C) Division (A) of this section does not apply if the county board, not later than ninety days after the date of the commitment of a person receiving home and community-based services, commences funding of home and community-based services for an individual who resides in a state-operated intermediate care facility for the mentally retarded on the date of the commitment or another eligible individual designated by the department. 45274
45275
45276
45277
45278
45279
45280

Sec. 5123.61. (A) As used in this section: 45281

(1) "Law enforcement agency" means the state highway patrol, the police department of a municipal corporation, or a county sheriff. 45282
45283
45284

(2) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section. 45285
45286
45287

(3) "Neglect" has the same meaning as in section 5123.50 of the Revised Code. 45288
45289

(B) The department of mental retardation and developmental disabilities shall establish a registry office for the purpose of maintaining reports of abuse, neglect, and other major unusual incidents made to the department under this section and reports 45290
45291
45292
45293

received from county boards of mental retardation and 45294
developmental disabilities under section 5126.31 of the Revised 45295
Code. The department shall establish committees to review reports 45296
of abuse, neglect, and other major unusual incidents. 45297

(C)(1) Any person listed in division (C)(2) of this section, 45298
having reason to believe that a person with mental retardation or 45299
a developmental disability has suffered any wound, injury, 45300
disability, or condition of such a nature as to reasonably 45301
indicate abuse or neglect of that person, shall immediately report 45302
or cause reports to be made of such information to a law 45303
enforcement agency or to the county board of mental retardation 45304
and developmental disabilities, except that if the report concerns 45305
a resident of a facility operated by the department of mental 45306
retardation and developmental disabilities the report shall be 45307
made either to a law enforcement agency or to the department. 45308

(2) All of the following persons are required to make a 45309
report under division (C)(1) of this section: 45310

(a) Any physician, including a hospital intern or resident, 45311
any dentist, podiatrist, chiropractor, practitioner of a limited 45312
branch of medicine as specified in section 4731.15 of the Revised 45313
Code, hospital administrator or employee of a hospital, nurse 45314
licensed under Chapter 4723. of the Revised Code, employee of ~~an~~ 45315
~~ambulatory a health facility as defined in section 5101.61 of the~~ 45316
~~Revised Code that provides outpatient services~~, employee of a home 45317
health agency, employee of an adult care facility licensed under 45318
Chapter 3722. of the Revised Code, or employee of a community 45319
mental health facility; 45320

(b) Any school teacher or school authority, social worker, 45321
psychologist, attorney, peace officer, coroner, clergyman, or 45322
residents' rights advocate as defined in section 3721.10 of the 45323
Revised Code; 45324

(c) A superintendent, board member, or employee of a county board of mental retardation and developmental disabilities; an administrator, board member, or employee of a residential facility licensed under section 5123.19 of the Revised Code; an administrator, board member, or employee of any other public or private provider of services to a person with mental retardation or a developmental disability, or any MR/DD employee, as defined in section 5123.50 of the Revised Code;

(d) A member of a citizen's advisory council established at an institution or branch institution of the department of mental retardation and developmental disabilities under section 5123.092 of the Revised Code;

(e) A person who, while acting in an official or professional capacity, renders spiritual treatment through prayer in accordance with the tenets of an organized religion.

(3) The reporting requirements of this division do not apply to members of the legal rights service commission or to employees of the legal rights service.

(D) The reports required under division (C) of this section shall be made forthwith by telephone or in person and shall be followed by a written report. The reports shall contain the following:

(1) The names and addresses of the person with mental retardation or a developmental disability and the person's custodian, if known;

(2) The age of the person with mental retardation or a developmental disability;

(3) Any other information that would assist in the investigation of the report.

(E) When a physician performing services as a member of the

staff of a hospital or similar institution has reason to believe 45355
that a person with mental retardation or a developmental 45356
disability has suffered injury, abuse, or physical neglect, the 45357
physician shall notify the person in charge of the institution or 45358
that person's designated delegate, who shall make the necessary 45359
reports. 45360

(F) Any person having reasonable cause to believe that a 45361
person with mental retardation or a developmental disability has 45362
suffered abuse or neglect may report the belief, or cause a report 45363
to be made, to a law enforcement agency or the county board of 45364
mental retardation and developmental disabilities, or, if the 45365
person is a resident of a facility operated by the department of 45366
mental retardation and developmental disabilities, to a law 45367
enforcement agency or to the department. 45368

(G)(1) Upon the receipt of a report concerning the possible 45369
abuse or neglect of a person with mental retardation or a 45370
developmental disability, the law enforcement agency shall inform 45371
the county board of mental retardation and developmental 45372
disabilities or, if the person is a resident of a facility 45373
operated by the department of mental retardation and developmental 45374
disabilities, the director of the department or the director's 45375
designee. 45376

(2) On receipt of a report under this section that includes 45377
an allegation of action or inaction that may constitute a crime 45378
under federal law or the law of this state, the department of 45379
mental retardation and developmental disabilities shall notify the 45380
law enforcement agency. 45381

(3) When a county board of mental retardation and 45382
developmental disabilities receives a report under this section 45383
that includes an allegation of action or inaction that may 45384
constitute a crime under federal law or the law of this state, the 45385
superintendent of the board or an individual the superintendent 45386

designates under division (H) of this section shall notify the law 45387
enforcement agency. The superintendent or individual shall notify 45388
the department of mental retardation and developmental 45389
disabilities when it receives any report under this section. 45390

(H) The superintendent of the board may designate an 45391
individual to be responsible for notifying the law enforcement 45392
agency and the department when the county board receives a report 45393
under this section. 45394

(I) An adult with mental retardation or a developmental 45395
disability about whom a report is made may be removed from the 45396
adult's place of residence only by law enforcement officers who 45397
consider that the adult's immediate removal is essential to 45398
protect the adult from further injury or abuse or in accordance 45399
with the order of a court made pursuant to section 5126.33 of the 45400
Revised Code. 45401

(J) A law enforcement agency shall investigate each report of 45402
abuse or neglect it receives under this section. In addition, the 45403
department, in cooperation with law enforcement officials, shall 45404
investigate each report regarding a resident of a facility 45405
operated by the department to determine the circumstances 45406
surrounding the injury, the cause of the injury, and the person 45407
responsible. The department shall determine, with the registry 45408
office which shall be maintained by the department, whether prior 45409
reports have been made concerning ~~and~~ an adult with mental 45410
retardation or a developmental disability or other principals in 45411
the case. If the department finds that the report involves action 45412
or inaction that may constitute a crime under federal law or the 45413
law of this state, it shall submit a report of its investigation, 45414
in writing, to the law enforcement agency. If the person with 45415
mental retardation or a developmental disability is an adult, with 45416
the consent of the adult, the department shall provide such 45417
protective services as are necessary to protect the adult. The law 45418

enforcement agency shall make a written report of its findings to 45419
the department. 45420

If the person is an adult and is not a resident of a facility 45421
operated by the department, the county board of mental retardation 45422
and developmental disabilities shall review the report of abuse or 45423
neglect in accordance with sections 5126.30 to 5126.33 of the 45424
Revised Code and the law enforcement agency shall make the written 45425
report of its findings to the county board. 45426

(K) Any person or any hospital, institution, school, health 45427
department, or agency participating in the making of reports 45428
pursuant to this section, any person participating as a witness in 45429
an administrative or judicial proceeding resulting from the 45430
reports, or any person or governmental entity that discharges 45431
responsibilities under sections 5126.31 to 5126.33 of the Revised 45432
Code shall be immune from any civil or criminal liability that 45433
might otherwise be incurred or imposed as a result of such actions 45434
except liability for perjury, unless the person or governmental 45435
entity has acted in bad faith or with malicious purpose. 45436

(L) No employer or any person with the authority to do so 45437
shall discharge, demote, transfer, prepare a negative work 45438
performance evaluation, reduce pay or benefits, terminate work 45439
privileges, or take any other action detrimental to an employee or 45440
retaliate against an employee as a result of the employee's having 45441
made a report under this section. This division does not preclude 45442
an employer or person with authority from taking action with 45443
regard to an employee who has made a report under this section if 45444
there is another reasonable basis for the action. 45445

(M) Reports made under this section are not public records as 45446
defined in section 149.43 of the Revised Code. Information 45447
contained in the reports on request shall be made available to the 45448
person who is the subject of the report, to the person's legal 45449
counsel, and to agencies authorized to receive information in the 45450

report by the department or by a county board of mental 45451
retardation and developmental disabilities. 45452

(N) Notwithstanding section 4731.22 of the Revised Code, the 45453
physician-patient privilege shall not be a ground for excluding 45454
evidence regarding the injuries or physical neglect of a person 45455
with mental retardation or a developmental disability or the cause 45456
thereof in any judicial proceeding resulting from a report 45457
submitted pursuant to this section. 45458

Sec. 5123.801. If neither a discharged resident, nor a 45459
resident granted trial visit, nor the persons requesting the 45460
resident's trial visit or discharge are financially able to bear 45461
the expense of the resident's trial visit or discharge, the 45462
managing officer of an institution under the control of the 45463
department of mental retardation and developmental disabilities 45464
may then provide actual traveling and escort expenses to the 45465
township of which the resident resided at the time of 45466
institutionalization. The amount payable shall be charged to the 45467
current expense fund of the institution. 45468

The expense of the return of a resident on trial visit from 45469
an institution, if it cannot be paid by the responsible relatives, 45470
shall be borne by the county of institutionalization. 45471

~~The managing officer of the institution shall take all proper 45472
measures for the apprehension of an escaped resident. The expense 45473
of the return of an escaped resident shall be borne by the 45474
institution where the resident is institutionalized. 45475~~

The managing officer of the institution shall provide 45476
sufficient and proper clothing for traveling if neither the 45477
resident nor the persons requesting the resident's trial visit or 45478
discharge are financially able to provide that clothing. 45479

Sec. 5123.851. When a resident institutionalized pursuant to 45480

this chapter is discharged from the institution, the managing officer of the institution may provide the resident with all personal items that were purchased in implementing the resident's habilitation plan established pursuant to section 5123.85 of the Revised Code. The personal items may be provided to the resident, regardless of the source of the funds that were used to purchase the items.

Sec. 5126.042. (A) As used in this section+ 45488

~~(1) "Emergency"~~ , "emergency" means any situation that creates for an individual with mental retardation or developmental disabilities a risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An "emergency" may include one or more of the following situations:

~~(a)(1)~~ Loss of present residence for any reason, including legal action;

~~(b)(2)~~ Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual;

~~(c)(3)~~ Abuse, neglect, or exploitation of the individual;

~~(d)(4)~~ Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;

~~(e)(5)~~ Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.

~~(2) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.~~

(B) If a county board of mental retardation and developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request

programs and services and may be offered the programs and 45511
services, it shall establish waiting lists for services. The board 45512
may establish priorities for making placements on its waiting 45513
lists according to an individual's emergency status and shall 45514
establish priorities in accordance with ~~division~~ divisions (D) and 45515
(E) of this section. 45516

The individuals who may be placed on a waiting list include 45517
individuals with a need for services on an emergency basis and 45518
individuals who have requested services for which resources are 45519
not available. 45520

Except for an individual who is to receive priority for 45521
services pursuant to division (D)(3) of this section, an 45522
individual who currently receives a service but would like to 45523
change to another service shall not be placed on a waiting list 45524
but shall be placed on a service substitution list. The board 45525
shall work with the individual, service providers, and all 45526
appropriate entities to facilitate the change in service as 45527
expeditiously as possible. The board may establish priorities for 45528
making placements on its service substitution lists according to 45529
an individual's emergency status. 45530

In addition to maintaining waiting lists and service 45531
substitution lists, a board shall maintain a long-term service 45532
planning registry for individuals who wish to record their 45533
intention to request in the future a service they are not 45534
currently receiving. The purpose of the registry is to enable the 45535
board to document requests and to plan appropriately. The board 45536
may not place an individual on the registry who meets the 45537
conditions for receipt of services on an emergency basis. 45538

(C) A county board shall establish a separate waiting list 45539
for each of the following categories of services, and may 45540
establish separate waiting lists within the waiting lists: 45541

(1) Early childhood services;	45542
(2) Educational programs for preschool and school age children;	45543 45544
(3) Adult services;	45545
(4) Service and support administration;	45546
(5) Residential services and supported living;	45547
(6) Transportation services;	45548
(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;	45549 45550 45551
(8) Family support services provided under section 5126.11 of the Revised Code.	45552 45553
(D) Except as provided in division (F) (G) of this section, a county board shall do, as priorities, all of the following in accordance with the assessment component, approved under section 5123.046 of the Revised Code, of the county board's plan developed under section 5126.054 of the Revised Code:	45554 45555 45556 45557 45558
(1) For the purpose of obtaining additional federal medicaid funds for home and community-based services, medicaid case management services, and habilitation center services, do both of the following:	45559 45560 45561 45562
(a) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include supported living, residential services, or family support services:	45563 45564 45565 45566 45567 45568
(i) Is twenty-two years of age or older;	45569
(ii) Receives supported living or family support services.	45570

(b) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include adult services:

(i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after enrollment in home and community-based services;

(ii) Receives adult services from the county board.

(2) As federal medicaid funds become available pursuant to division (D)(1) of this section, give an individual who is eligible for home and community-based services and meets any of the following requirements priority for such services over any other individual on a waiting list established under division (C) of this section:

(a) Does not receive residential services or supported living, either needs services in the individual's current living arrangement or will need services in a new living arrangement, and has a primary caregiver who is sixty years of age or older;

(b) Is less than twenty-two years of age and has at least one of the following service needs that are unusual in scope or intensity:

(i) Severe behavior problems for which a behavior support plan is needed;

(ii) An emotional disorder for which anti-psychotic medication is needed;

(iii) A medical condition that leaves the individual dependent on life-support medical technology;

(iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or

habilitation services are needed; 45601

(v) A condition the county board determines to be comparable 45602
in severity to any condition described in division (D)(2)(b)(i) to 45603
(iv) of this section and places the individual at significant risk 45604
of institutionalization. 45605

(c) Is twenty-two years of age or older, does not receive 45606
residential services or supported living, and is determined by the 45607
county board to have intensive needs for home and community-based 45608
services on an in-home or out-of-home basis. 45609

(3) In fiscal years 2002 and 2003, give an individual who is 45610
eligible for home and community-based services, resides in an 45611
intermediate care facility for the mentally retarded or nursing 45612
facility, chooses to move to another setting with the help of home 45613
and community-based services, and has been determined by the 45614
department of mental retardation and developmental disabilities to 45615
be capable of residing in the other setting, priority over any 45616
other individual on a waiting list established under division (C) 45617
of this section for home and community-based services who does not 45618
meet these criteria. The department of mental retardation and 45619
developmental disabilities shall identify the individuals to 45620
receive priority under division (D)(3) of this section, assess the 45621
needs of the individuals, and notify the county boards that are to 45622
provide the individuals priority under division (D)(3) of this 45623
section of the individuals identified by the department and the 45624
individuals' assessed needs. 45625

(E) Except as provided in division (G) of this section and 45626
for a number of years and beginning on a date specified in rules 45627
adopted under division (K) of this section, a county board shall 45628
give an individual who is eligible for home and community-based 45629
services, resides in a nursing facility, chooses to move to 45630
another setting with the help of home and community-based 45631
services, and has been determined by the department of mental 45632

retardation and developmental disabilities to be capable of 45633
residing in the other setting, priority over any other individual 45634
on a waiting list established under division (C) of this section 45635
for home and community-based services who does not meet these 45636
criteria. 45637

(F) If two or more individuals on a waiting list established 45638
under division (C) of this section for home and community-based 45639
services have priority for the services pursuant to division 45640
(D)(1) or (2) or (E) of this section, a county board may use, 45641
until December 31, 2003, criteria specified in rules adopted under 45642
division ~~(J)~~(K)(2) of this section in determining the order in 45643
which the individuals with priority will be offered the services. 45644
Otherwise, the county board shall offer the home and 45645
community-based services to such individuals in the order they are 45646
placed on the waiting list. 45647

~~(F)~~(G)(1) No individual may receive priority for services 45648
pursuant to division (D) or (E) of this section over an individual 45649
placed on a waiting list established under division (C) of this 45650
section on an emergency status. 45651

(2) No more than four hundred individuals in the state may 45652
receive priority for services during the 2002 and 2003 biennium 45653
pursuant to division (D)(2)(b) of this section. 45654

(3) No more than a total of seventy-five individuals in the 45655
state may receive priority for services during state fiscal years 45656
2002 and 2003 pursuant to division (D)(3) of this section. 45657

~~(G)~~(4) No more than forty individuals in the state may 45658
receive priority for services pursuant to division (E) of this 45659
section for each year that priority category is in effect as 45660
specified in rules adopted under division (K) of this section. 45661

(H) Prior to establishing any waiting list under this 45662
section, a county board shall develop and implement a policy for 45663

waiting lists that complies with this section and rules adopted 45664
under division ~~(J)~~(K) of this section. 45665

Prior to placing an individual on a waiting list, the county 45666
board shall assess the service needs of the individual in 45667
accordance with all applicable state and federal laws. The county 45668
board shall place the individual on the appropriate waiting list 45669
and may place the individual on more than one waiting list. The 45670
county board shall notify the individual of the individual's 45671
placement and position on each waiting list on which the 45672
individual is placed. 45673

At least annually, the county board shall reassess the 45674
service needs of each individual on a waiting list. If it 45675
determines that an individual no longer needs a program or 45676
service, the county board shall remove the individual from the 45677
waiting list. If it determines that an individual needs a program 45678
or service other than the one for which the individual is on the 45679
waiting list, the county board shall provide the program or 45680
service to the individual or place the individual on a waiting 45681
list for the program or service in accordance with the board's 45682
policy for waiting lists. 45683

When a program or service for which there is a waiting list 45684
becomes available, the county board shall reassess the service 45685
needs of the individual next scheduled on the waiting list to 45686
receive that program or service. If the reassessment demonstrates 45687
that the individual continues to need the program or service, the 45688
board shall offer the program or service to the individual. If it 45689
determines that an individual no longer needs a program or 45690
service, the county board shall remove the individual from the 45691
waiting list. If it determines that an individual needs a program 45692
or service other than the one for which the individual is on the 45693
waiting list, the county board shall provide the program or 45694
service to the individual or place the individual on a waiting 45695

list for the program or service in accordance with the board's 45696
policy for waiting lists. The county board shall notify the 45697
individual of the individual's placement and position on the 45698
waiting list on which the individual is placed. 45699

~~(H)~~(I) A child subject to a determination made pursuant to 45700
section 121.38 of the Revised Code who requires the home and 45701
community-based services provided through the medicaid component 45702
that the department of mental retardation and developmental 45703
disabilities administers under section 5111.871 of the Revised 45704
Code shall receive services through that medicaid component. For 45705
all other services, a child subject to a determination made 45706
pursuant to section 121.38 of the Revised Code shall be treated as 45707
an emergency by the county boards and shall not be subject to a 45708
waiting list. 45709

~~(I)~~(J) Not later than the fifteenth day of March of each 45710
even-numbered year, each county board shall prepare and submit to 45711
the director of mental retardation and developmental disabilities 45712
its recommendations for the funding of services for individuals 45713
with mental retardation and developmental disabilities and its 45714
proposals for reducing the waiting lists for services. 45715

~~(J)~~(K)(1) The department of mental retardation and 45716
developmental disabilities shall adopt rules in accordance with 45717
Chapter 119. of the Revised Code governing waiting lists 45718
established under this section. The rules shall include procedures 45719
to be followed to ensure that the due process rights of 45720
individuals placed on waiting lists are not violated. 45721

(2) As part of the rules adopted under this division, the 45722
department shall adopt, ~~not later than December 31, 2001,~~ rules 45723
establishing criteria a county board may use under division ~~(E)~~(F) 45724
of this section in determining the order in which individuals with 45725
priority for home and community-based services will be offered the 45726
services. The rules shall also specify conditions under which a 45727

county board, when there is no individual with priority for home 45728
and community-based services pursuant to division (D)(1) or (2) or 45729
(E) of this section available and appropriate for the services, 45730
may offer the services to an individual on a waiting list for the 45731
services but not given such priority for the services. The rules 45732
adopted under division ~~(J)~~(K)(2) of this section shall cease to 45733
have effect December 31, 2003. 45734

~~(K)~~(3) As part of the rules adopted under this division, the 45735
department shall adopt rules specifying both of the following for 45736
the priority category established under division (E) of this 45737
section: 45738

(a) The number of years, which shall not exceed five, that 45739
the priority category will be in effect; 45740

(b) The date that the priority category is to go into effect. 45741

(L) The following shall take precedence over the applicable 45742
provisions of this section: 45743

(1) Medicaid rules and regulations; 45744

(2) Any specific requirements that may be contained within a 45745
medicaid state plan amendment or waiver program that a county 45746
board has authority to administer or with respect to which it has 45747
authority to provide services, programs, or supports. 45748

Sec. 5126.12. (A) As used in this section: 45749

(1) "Approved school age class" means a class operated by a 45750
county board of mental retardation and developmental disabilities 45751
and funded by the department of education under section 3317.20 of 45752
the Revised Code. 45753

(2) "Approved preschool unit" means a class or unit operated 45754
by a county board of mental retardation and developmental 45755
disabilities and approved ~~by the state board of education~~ under 45756
division (B) of section 3317.05 of the Revised Code. 45757

(3) "Active treatment" means a continuous treatment program, 45758
which includes aggressive, consistent implementation of a program 45759
of specialized and generic training, treatment, health services, 45760
and related services, that is directed toward the acquisition of 45761
behaviors necessary for an individual with mental retardation or 45762
other developmental disability to function with as much 45763
self-determination and independence as possible and toward the 45764
prevention of deceleration, regression, or loss of current optimal 45765
functional status. 45766

(4) "Eligible for active treatment" means that an individual 45767
with mental retardation or other developmental disability resides 45768
in an intermediate care facility for the mentally retarded 45769
certified under Title XIX of the "Social Security Act," 49 79 45770
Stat. 620 286 (1935 1965), 42 U.S.C. 301 1396, as amended; resides 45771
in a state institution operated by the department of mental 45772
retardation and developmental disabilities; or is enrolled in a 45773
home and community-based services waiver program ~~administered by~~ 45774
~~the department of mental retardation and developmental~~ 45775
~~disabilities as part of the medical assistance program established~~ 45776
~~under section 5111.01 of the Revised Code.~~ 45777

(5) "Community alternative funding system" means the program 45778
under which habilitation center services are reimbursed under the 45779
medicaid program pursuant to section 5111.041 of the Revised Code 45780
and rules adopted under that section. 45781

(6) "Home and community-based services waiver program" means, 45782
notwithstanding section 5126.01 of the Revised Code, 45783
medicaid-funded home and community-based services provided under a 45784
medicaid component the department of mental retardation and 45785
developmental disabilities administers pursuant to section 45786
5111.871 or 5111.882 of the Revised Code. 45787

(7) "Traditional adult services" means vocational and 45788

nonvocational activities conducted within a sheltered workshop or 45789
adult activity center or supportive home services. 45790

(B) Each county board of mental retardation and developmental 45791
disabilities shall certify to the director of mental retardation 45792
and developmental disabilities all of the following: 45793

(1) On or before the fifteenth day of October, the average 45794
daily membership for the first full week of programs and services 45795
during October receiving: 45796

(a) Early childhood services provided pursuant to section 45797
5126.05 of the Revised Code for children who are less than three 45798
years of age on the thirtieth day of September of the academic 45799
year; 45800

(b) Special education for handicapped children in approved 45801
school age classes; 45802

(c) Adult services for persons sixteen years of age and older 45803
operated pursuant to section 5126.05 and division (B) of section 45804
5126.051 of the Revised Code. Separate counts shall be made for 45805
the following: 45806

(i) Persons enrolled in traditional adult services who are 45807
eligible for but not enrolled in active treatment under the 45808
community alternative funding system; 45809

(ii) Persons enrolled in traditional adult services who are 45810
eligible for and enrolled in active treatment under the community 45811
alternative funding system; 45812

(iii) Persons enrolled in traditional adult services but who 45813
are not eligible for active treatment under the community 45814
alternative funding system; 45815

(iv) Persons participating in community employment services. 45816
To be counted as participating in community employment services, a 45817
person must have spent an average of no less than ten hours per 45818

week in that employment during the preceding six months. 45819

(d) Other programs in the county for individuals with mental 45820
retardation and developmental disabilities that have been approved 45821
for payment of subsidy by the department of mental retardation and 45822
developmental disabilities. 45823

The membership in each such program and service in the county 45824
shall be reported on forms prescribed by the department of mental 45825
retardation and developmental disabilities. 45826

The department of mental retardation and developmental 45827
disabilities shall adopt rules defining full-time equivalent 45828
enrollees and for determining the average daily membership 45829
therefrom, except that certification of average daily membership 45830
in approved school age classes shall be in accordance with rules 45831
adopted by the state board of education. The average daily 45832
membership figure shall be determined by dividing the amount 45833
representing the sum of the number of enrollees in each program or 45834
service in the week for which the certification is made by the 45835
number of days the program or service was offered in that week. No 45836
enrollee may be counted in average daily membership for more than 45837
one program or service. 45838

(2) By the fifteenth day of December, the number of children 45839
enrolled in approved preschool units on the first day of December; 45840

(3) On or before the thirtieth day of March, an itemized 45841
report of all income and operating expenditures for the 45842
immediately preceding calendar year, in the format specified by 45843
the department of mental retardation and developmental 45844
disabilities; 45845

(4) By the fifteenth day of February, a report of the total 45846
annual cost per enrollee for operation of programs and services in 45847
the preceding calendar year. The report shall include a grand 45848
total of all programs operated, the cost of the individual 45849

programs, and the sources of funds applied to each program. 45850

(5) That each required certification and report is in 45851
accordance with rules established by the department of mental 45852
retardation and developmental disabilities and the state board of 45853
education for the operation and subsidization of the programs and 45854
services. 45855

(C) To compute payments under this section to the board for 45856
the fiscal year, the department of mental retardation and 45857
developmental disabilities shall use the certification of average 45858
daily membership required by division (B)(1) of this section 45859
exclusive of the average daily membership in any approved school 45860
age class and the number in any approved preschool unit. 45861

(D) The department shall pay each county board for each 45862
fiscal year an amount equal to nine hundred fifty dollars times 45863
the certified number of persons who on the first day of December 45864
of the academic year are under three years of age and are not in 45865
an approved preschool unit. For persons who are at least age 45866
sixteen and are not in an approved school age class, the 45867
department shall pay each county board for each fiscal year the 45868
following amounts: 45869

(1) One thousand dollars times the certified average daily 45870
membership of persons enrolled in traditional adult services who 45871
are eligible for but not enrolled in active treatment under the 45872
community alternative funding system; 45873

(2) One thousand two hundred dollars times the certified 45874
average daily membership of persons enrolled in traditional adult 45875
services who are eligible for and enrolled in active treatment 45876
under the community alternative funding system; 45877

(3) No less than one thousand five hundred dollars times the 45878
certified average daily membership of persons enrolled in 45879
traditional adult services but who are not eligible for active 45880

treatment under the community alternative funding system; 45881

(4) No less than one thousand five hundred dollars times the 45882
certified average daily membership of persons participating in 45883
community employment services. 45884

(E) The department shall distribute this subsidy to county 45885
boards in semiannual installments of equal amounts. The 45886
installments shall be made not later than the thirty-first day of 45887
August and the thirty-first day of January. 45888

(F) The director of mental retardation and developmental 45889
disabilities shall make efforts to obtain increases in the 45890
subsidies for early childhood services and adult services so that 45891
the amount of the subsidies is equal to at least fifty per cent of 45892
the statewide average cost of those services minus any applicable 45893
federal reimbursements for those services. The director shall 45894
advise the director of budget and management of the need for any 45895
such increases when submitting the biennial appropriations request 45896
for the department. 45897

(G) In determining the reimbursement of a county board for 45898
the provision of service and support administration, family 45899
support services, and other services required or approved by the 45900
director for which children three through twenty-one years of age 45901
are eligible, the department shall include the average daily 45902
membership in approved school age or preschool units. The 45903
department, in accordance with this section and upon receipt and 45904
approval of the certification required by this section and any 45905
other information it requires to enable it to determine a board's 45906
payments, shall pay the agency providing the specialized training 45907
the amounts payable under this section. 45908

Sec. 5126.31. (A) A county board of mental retardation and 45909
developmental disabilities shall review reports of abuse and 45910
neglect made under section 5123.61 of the Revised Code and reports 45911

referred to it under section 5101.611 of the Revised Code to 45912
determine whether the person who is the subject of the report is 45913
an adult with mental retardation or a developmental disability in 45914
need of services to deal with the abuse or neglect. The board 45915
shall give notice of each report to the registry office of the 45916
department of mental retardation and developmental disabilities 45917
established pursuant to section 5123.61 of the Revised Code on the 45918
first working day after receipt of the report. If the report 45919
alleges that there is a substantial risk to the adult of immediate 45920
physical harm or death, the board shall initiate review within 45921
twenty-four hours of its receipt of the report. If the board 45922
determines that the person is sixty years of age or older but does 45923
not have mental retardation or a developmental disability, it 45924
shall refer the case to the county department of job and family 45925
services or designated agency, as defined in section 5101.60 of 45926
the Revised Code. If the board determines that the person is an 45927
adult with mental retardation or a developmental disability, it 45928
shall continue its review of the case. 45929

(B) For each review over which the board retains 45930
responsibility under division (A) of this section, it shall do all 45931
of the following: 45932

(1) Give both written and oral notice of the purpose of the 45933
review to the adult and, if any, to the adult's legal counsel or 45934
caretaker, in simple and clear language; 45935

(2) Visit the adult, in the adult's residence if possible, 45936
and explain the notice given under division (B)(1) of this 45937
section; 45938

(3) Request from the registry office any prior reports 45939
concerning the adult or other principals in the case; 45940

(4) Consult, if feasible, with the person who made the report 45941
under section 5101.61 or 5123.61 of the Revised Code and with any 45942

agencies or persons who have information about the alleged abuse 45943
or neglect; 45944

(5) Cooperate fully with the law enforcement agency 45945
responsible for investigating the report and for filing any 45946
resulting criminal charges and, on request, turn over evidence to 45947
the agency; 45948

(6) Determine whether the adult needs services, and prepare a 45949
written report stating reasons for the determination. No adult 45950
shall be determined to be abused, neglected, or in need of 45951
services for the sole reason that, in lieu of medical treatment, 45952
the adult relies on or is being furnished spiritual treatment 45953
through prayer alone in accordance with the tenets and practices 45954
of a church or religious denomination of which the adult is a 45955
member or adherent. 45956

(C) The board shall arrange for the provision of services for 45957
the prevention, correction or discontinuance of abuse or neglect 45958
or of a condition resulting from abuse or neglect for any adult 45959
who has been determined to need the services and consents to 45960
receive them. These services may include, but are not limited to, 45961
service and support administration, fiscal management, medical, 45962
mental health, home health care, homemaker, legal, and residential 45963
services and the provision of temporary accommodations and 45964
necessities such as food and clothing. The services do not include 45965
acting as a guardian, trustee, or protector as defined in section 45966
5123.55 of the Revised Code. If the provision of residential 45967
services would require expenditures by the department of mental 45968
retardation and developmental disabilities, the board shall obtain 45969
the approval of the department prior to arranging the residential 45970
services. 45971

To arrange services, the board shall: 45972

(1) Develop an individualized service plan identifying the 45973

types of services required for the adult, the goals for the 45974
services, and the persons or agencies that will provide them; 45975

(2) In accordance with rules established by the director of 45976
mental retardation and developmental disabilities, obtain the 45977
consent of the adult or the adult's guardian to the provision of 45978
any of these services and obtain the signature of the adult or 45979
guardian on the individual service plan. An adult who has been 45980
found incompetent under Chapter 2111. of the Revised Code may 45981
consent to services. If the board is unable to obtain consent, it 45982
may seek, if the adult is incapacitated, a court order pursuant to 45983
section 5126.33 of the Revised Code authorizing the board to 45984
arrange these services. 45985

(D) The board shall ensure that the adult receives the 45986
services arranged by the board from the provider and shall have 45987
the services terminated if the adult withdraws consent. 45988

(E) On completion of a review, the board shall submit a 45989
written report to the registry office established under section 45990
5123.61 of the Revised Code. If the report includes a finding that 45991
a person with mental retardation or a developmental disability is 45992
a victim of action or inaction that may constitute a crime under 45993
federal law or the law of this state, the board shall submit the 45994
report to the law enforcement agency responsible for investigating 45995
the report. Reports prepared under this section are not public 45996
records as defined in section 149.43 of the Revised Code. 45997

(F) The board shall provide comprehensive formal training for 45998
employees and other persons authorized to implement the 45999
requirements of this section. 46000

Sec. 5139.36. (A) In accordance with this section and the 46001
rules adopted under it and from funds appropriated to the 46002
department of youth services for the purposes of this section, the 46003
department shall make grants that provide financial resources to 46004

operate community corrections facilities for felony delinquents. 46005

(B)(1) Each community corrections facility that intends to 46006
seek a grant under this section shall file an application with the 46007
department of youth services at the time and in accordance with 46008
the procedures that the department shall establish by rules 46009
adopted in accordance with Chapter 119. of the Revised Code. In 46010
addition to other items required to be included in the 46011
application, a plan that satisfies both of the following shall be 46012
included: 46013

(a) It reduces the number of felony delinquents committed to 46014
the department from the county or counties associated with the 46015
community corrections facility. 46016

(b) It ensures equal access for minority felony delinquents 46017
to the programs and services for which a potential grant would be 46018
used. 46019

(2) The department of youth services shall review each 46020
application submitted pursuant to division (B)(1) of this section 46021
to determine whether the plan described in that division, the 46022
community corrections facility, and the application comply with 46023
this section and the rules adopted under it. 46024

(C) To be eligible for a grant under this section and for 46025
continued receipt of moneys comprising a grant under this section, 46026
a community corrections facility shall satisfy at least all of the 46027
following requirements: 46028

(1) Be constructed, reconstructed, improved, or financed by 46029
the Ohio building authority pursuant to section 307.021 of the 46030
Revised Code and Chapter 152. of the Revised Code for the use of 46031
the department of youth services and be designated as a community 46032
corrections facility; 46033

(2) Have written standardized criteria governing the types of 46034
felony delinquents that are eligible for the programs and services 46035

provided by the facility; 46036

(3) Have a written standardized intake screening process and 46037
an intake committee that at least performs both of the following 46038
tasks: 46039

(a) Screens all eligible felony delinquents who are being 46040
considered for admission to the facility in lieu of commitment to 46041
the department; 46042

(b) Notifies, within ten days after the date of the referral 46043
of a felony delinquent to the facility, the committing court 46044
whether the felony delinquent will be admitted to the facility. 46045

(4) Comply with all applicable fiscal and program rules that 46046
the department adopts in accordance with Chapter 119. of the 46047
Revised Code and demonstrate that felony delinquents served by the 46048
facility have been or will be diverted from a commitment to the 46049
department. 46050

(D) The department of youth services shall determine the 46051
method of distribution of the funds appropriated for grants under 46052
this section to community corrections facilities. 46053

~~(E) With the consent of a committing court and of a community 46054
corrections facility that has received a grant under this section,
the department of youth services may place in that facility a 46055
felony delinquent who has been committed to the department. During 46056
the period in which the felony delinquent is in that facility, the 46057
felony delinquent~~ (1) The department of youth services shall adopt 46059
rules in accordance with Chapter 119. of the Revised Code to 46060
establish the minimum occupancy threshold of community corrections 46061
facilities. 46062

(2) The department may make referrals for the placement of 46063
children in its custody to a community corrections facility if the 46064
community corrections facility is not meeting the minimum 46065
occupancy threshold established by the department. At least 46066

forty-five days prior to the referral of a child, the department 46067
shall notify the committing court of its intent to place the child 46068
in a community corrections facility. The court shall have thirty 46069
days after the receipt of the notice to approve or disapprove the 46070
placement. If the court does not respond to the notice of the 46071
placement within that thirty-day period, the department shall 46072
proceed with the placement and debit the county in accordance with 46073
sections 5139.41 to 5139.45 of the Revised Code. A child placed in 46074
a community corrections facility pursuant to this division shall 46075
remain in the legal custody of the department of youth services 46076
during the period in which the child is in the community 46077
corrections facility. 46078

(3) Counties that are not associated with a community 46079
corrections facility may refer children to a community corrections 46080
facility with the consent of the facility. The department of youth 46081
services shall debit the county that makes the referral in 46082
accordance with sections 5139.41 to 5139.45 of the Revised Code. 46083

(F) If the board or other governing body of a community 46084
corrections facility establishes an advisory board, the board or 46085
other governing authority of the community corrections facility 46086
shall reimburse the members of the advisory board for their actual 46087
and necessary expenses incurred in the performance of their 46088
official duties on the advisory board. The members of advisory 46089
boards shall serve without compensation. 46090

Sec. 5139.87. (A) The department of youth services shall 46091
serve as the state agent for the administration of all federal 46092
juvenile justice grants awarded to the state. 46093

(B) There are hereby created in the state treasury the 46094
federal juvenile justice programs funds. A separate fund shall be 46095
established each federal fiscal year. All federal grants and other 46096
moneys received for federal juvenile programs shall be deposited 46097

into the funds. All receipts deposited into the funds shall be 46098
used for federal juvenile programs. All investment earnings on the 46099
cash balance in a federal juvenile program fund shall be credited 46100
to that fund for the appropriate federal fiscal year. 46101

(C) All rules, orders, and determinations of the office of 46102
criminal justice services regarding the administration of federal 46103
juvenile justice grants that are in effect on the effective date 46104
of this amendment shall continue in effect as rules, orders, and 46105
determinations of the department of youth services. 46106

Sec. 5153.16. (A) Except as provided in section 2151.422 of 46107
the Revised Code, in accordance with rules of the department of 46108
job and family services, and on behalf of children in the county 46109
whom the public children services agency considers to be in need 46110
of public care or protective services, the public children 46111
services agency shall do all of the following: 46112

(1) Make an investigation concerning any child alleged to be 46113
an abused, neglected, or dependent child; 46114

(2) Enter into agreements with the parent, guardian, or other 46115
person having legal custody of any child, or with the department 46116
of job and family services, department of mental health, 46117
department of mental retardation and developmental disabilities, 46118
other department, any certified organization within or outside the 46119
county, or any agency or institution outside the state, having 46120
legal custody of any child, with respect to the custody, care, or 46121
placement of any child, or with respect to any matter, in the 46122
interests of the child, provided the permanent custody of a child 46123
shall not be transferred by a parent to the public children 46124
services agency without the consent of the juvenile court; 46125

(3) Accept custody of children committed to the public 46126
children services agency by a court exercising juvenile 46127
jurisdiction; 46128

- (4) Provide such care as the public children services agency 46129
considers to be in the best interests of any child adjudicated to 46130
be an abused, neglected, or dependent child the agency finds to be 46131
in need of public care or service; 46132
- (5) Provide social services to any unmarried girl adjudicated 46133
to be an abused, neglected, or dependent child who is pregnant 46134
with or has been delivered of a child; 46135
- (6) Make available to the bureau for children with medical 46136
handicaps of the department of health at its request any 46137
information concerning a crippled child found to be in need of 46138
treatment under sections 3701.021 to 3701.028 of the Revised Code 46139
who is receiving services from the public children services 46140
agency; 46141
- (7) Provide temporary emergency care for any child considered 46142
by the public children services agency to be in need of such care, 46143
without agreement or commitment; 46144
- (8) Find certified foster homes, within or outside the 46145
county, for the care of children, including handicapped children 46146
from other counties attending special schools in the county; 46147
- (9) Subject to the approval of the board of county 46148
commissioners and the state department of job and family services, 46149
establish and operate a training school or enter into an agreement 46150
with any municipal corporation or other political subdivision of 46151
the county respecting the operation, acquisition, or maintenance 46152
of any children's home, training school, or other institution for 46153
the care of children maintained by such municipal corporation or 46154
political subdivision; 46155
- (10) Acquire and operate a county children's home, establish, 46156
maintain, and operate a receiving home for the temporary care of 46157
children, or procure certified foster homes for this purpose; 46158

(11) Enter into an agreement with the trustees of any 46159
district children's home, respecting the operation of the district 46160
children's home in cooperation with the other county boards in the 46161
district; 46162

(12) Cooperate with, make its services available to, and act 46163
as the agent of persons, courts, the department of job and family 46164
services, the department of health, and other organizations within 46165
and outside the state, in matters relating to the welfare of 46166
children, except that the public children services agency shall 46167
not be required to provide supervision of or other services 46168
related to the exercise of parenting time rights granted pursuant 46169
to section 3109.051 or 3109.12 of the Revised Code or 46170
companionship or visitation rights granted pursuant to section 46171
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 46172
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 46173
a common pleas court, pursuant to division (E)(6) of section 46174
3113.31 of the Revised Code, requires the provision of supervision 46175
or other services related to the exercise of the parenting time 46176
rights or companionship or visitation rights; 46177

(13) Make investigations at the request of any superintendent 46178
of schools in the county or the principal of any school concerning 46179
the application of any child adjudicated to be an abused, 46180
neglected, or dependent child for release from school, where such 46181
service is not provided through a school attendance department; 46182

(14) Administer funds provided under Title IV-E of the 46183
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 46184
amended, in accordance with rules adopted under section 5101.141 46185
of the Revised Code; 46186

(15) In addition to administering Title IV-E adoption 46187
assistance funds, enter into agreements to make adoption 46188
assistance payments under section 5153.163 of the Revised Code; 46189

(16) Implement a system of risk assessment, in accordance 46190
with rules adopted by the director of job and family services, to 46191
assist the public children services agency in determining the risk 46192
of abuse or neglect to a child; 46193

(17) Enter into a plan of cooperation with the board of 46194
county commissioners under section 307.983 of the Revised Code and 46195
comply with ~~the partnership~~ each fiscal agreement the board enters 46196
into under section 307.98 of the Revised Code and contracts the 46197
board enters into under sections 307.981 and 307.982 of the 46198
Revised Code that affect the public children services agency; 46199

(18) Make reasonable efforts to prevent the removal of an 46200
alleged or adjudicated abused, neglected, or dependent child from 46201
the child's home, eliminate the continued removal of the child 46202
from the child's home, or make it possible for the child to return 46203
home safely, except that reasonable efforts of that nature are not 46204
required when a court has made a determination under division 46205
(A)(2) of section 2151.419 of the Revised Code; 46206

(19) Make reasonable efforts to place the child in a timely 46207
manner in accordance with the permanency plan approved under 46208
division (E) of section 2151.417 of the Revised Code and to 46209
complete whatever steps are necessary to finalize the permanent 46210
placement of the child; 46211

(20) Administer a Title IV-A program identified under 46212
division (A)(3)(c) or (d) of section 5101.80 of the Revised Code 46213
that the department of job and family services provides for the 46214
public children services agency to administer under the 46215
department's supervision pursuant to section 5101.801 of the 46216
Revised Code; 46217

(21) Provide independent living services pursuant to sections 46218
2151.81 to 2151.84 of the Revised Code. 46219

(B) The public children services agency shall use the system 46220

implemented pursuant to division (B)(16) of this section in 46221
connection with an investigation undertaken pursuant to division 46222
(F)(1) of section 2151.421 of the Revised Code and may use the 46223
system at any other time the agency is involved with any child 46224
when the agency determines that risk assessment is necessary. 46225

(C) Except as provided in section 2151.422 of the Revised 46226
Code, in accordance with rules of the director of job and family 46227
services, and on behalf of children in the county whom the public 46228
children services agency considers to be in need of public care or 46229
protective services, the public children services agency may do 46230
the following: 46231

(1) Provide or find, with other child serving systems, 46232
specialized foster care for the care of children in a specialized 46233
foster home, as defined in section 5103.02 of the Revised Code, 46234
certified under section 5103.03 of the Revised Code; 46235

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 46236
this section, contract with the following for the purpose of 46237
assisting the agency with its duties: 46238

(i) County departments of job and family services; 46239

(ii) Boards of alcohol, drug addiction, and mental health 46240
services; 46241

(iii) County boards of mental retardation and developmental 46242
disabilities; 46243

(iv) Regional councils of political subdivisions established 46244
under Chapter 167. of the Revised Code; 46245

(v) Private and government providers of services; 46246

(vi) Managed care organizations and prepaid health plans. 46247

(b) A public children services agency contract under division 46248
(C)(2)(a) of this section regarding the agency's duties under 46249
section 2151.421 of the Revised Code may not provide for the 46250

entity under contract with the agency to perform any service not 46251
authorized by the department's rules. 46252

(c) Only a county children services board appointed under 46253
section 5153.03 of the Revised Code that is a public children 46254
services agency may contract under division (C)(2)(a) of this 46255
section. If an entity specified in division (B) or (C) of section 46256
5153.02 of the Revised Code is the public children services agency 46257
for a county, the board of county commissioners may enter into 46258
contracts pursuant to section 307.982 of the Revised Code 46259
regarding the agency's duties. 46260

Sec. 5153.163. (A) As used in this section, "adoptive parent" 46261
means, as the context requires, a prospective adoptive parent or 46262
an adoptive parent. 46263

(B)(1) ~~If Before a child's adoption is finalized, a public 46264
children services agency considers a child with special needs 46265
residing in the county served by the agency to be in need of 46266
public care or protective services and all of the following apply,~~ 46267
~~the agency shall enter into an agreement with the child's adoptive 46268
parent before the child is adopted under which the agency shall 46269
make state adoption maintenance subsidy payments as needed on 46270
behalf of the child when all of the following apply:~~ 46271

(a) The child is a child with special needs. 46272

(b) The child was placed in the adoptive home by a public 46273
children services agency or a private child placing agency and may 46274
legally be adopted. 46275

(c) The adoptive parent has the capability of providing the 46276
permanent family relationships needed by the child ~~in all areas 46277
except financial need as determined by the agency;.~~ 46278

~~(b)(d)~~ (d) The needs of the child are beyond the economic 46279
resources of the adoptive parent ~~as determined by the agency;.~~ 46280

~~(c) The agency determines the acceptance~~ (e) Acceptance of 46281
the child as a member of the adoptive parent's family would not be 46282
in the child's best interest without payments on the child's 46283
behalf under this section. 46284

~~(2) Payments to an adoptive parent under division (B) of this~~ 46285
~~section shall include medical, surgical, psychiatric,~~ 46286
~~psychological, and counseling expenses, and may include~~ 46287
~~maintenance costs if necessary and other costs incidental to the~~ 46288
~~care of the child. No payment of maintenance costs shall be made~~ 46289
~~under division (B) of this section on behalf of a child if either~~ 46290
~~of the following apply:~~ 46291

~~(a)(f)~~ (f) The gross income of the adoptive parent's family 46292
~~exceeds~~ does not exceed one hundred twenty per cent of the median 46293
income of a family of the same size, including the child, as most 46294
recently determined for this state by the secretary of health and 46295
human services under Title XX of the "Social Security Act," 88 46296
Stat. 2337, 42 U.S.C.A. 1397, as amended. 46297

~~(b)(g)~~ (g) The child is not eligible for adoption assistance 46298
~~payments for maintenance costs~~ under Title IV-E of the "Social 46299
Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended. 46300

(2) State adoption maintenance subsidy payment agreements 46301
must be made by either the public children services agency that 46302
has permanent custody of the child or the public children services 46303
agency of the county in which the private child placing agency 46304
that has permanent custody of the child is located. 46305

(3) State adoption maintenance subsidy payments shall be made 46306
in accordance with the agreement between the public children 46307
services agency and the adoptive parent and are subject to an 46308
annual redetermination of need. 46309

(4) Payments under this division ~~(B) of this section~~ may 46310
begin either before or after issuance of the final adoption 46311

decree, except that payments made before issuance of the final 46312
adoption decree may be made only while the child is living in the 46313
adoptive parent's home. Preadoption payments may be made for not 46314
more than twelve months, unless the final adoption decree is not 46315
issued within that time because of a delay in court proceedings. 46316
Payments that begin before issuance of the final adoption decree 46317
may continue after its issuance. 46318

(C)(1) ~~If, after the child's adoption is finalized,~~ a public 46319
children services agency considers a child residing in the county 46320
served by the agency to be in need of public care or protective 46321
services and both of the following apply, the agency may, ~~and~~ to 46322
the extent state funds are appropriated for this purpose ~~shall,~~ 46323
enter into an agreement with the child's adoptive parent ~~after the~~ 46324
~~child is adopted~~ under which the agency shall make post adoption 46325
special services subsidy payments on behalf of the child as 46326
needed: 46327

~~(1)(a)~~ The child has a physical or developmental handicap or 46328
mental or emotional condition that either: 46329

~~(a)(i)~~ Existed before the adoption petition was filed; 46330

~~(b)(ii)~~ Developed after the adoption petition was filed and 46331
can be directly attributed to factors in the child's preadoption 46332
background, medical history, or biological family's background or 46333
medical history. 46334

~~(2)(b)~~ The agency determines the expenses necessitated by the 46335
child's handicap or condition are beyond the adoptive parent's 46336
economic resources. 46337

~~Payments to an adoptive parent~~ (2) Services for which a 46338
public children services agency may make post adoption special 46339
services subsidy payments on behalf of a child under this division 46340
shall include medical, surgical, psychiatric, psychological, and 46341
counseling ~~expenses~~ services, including residential treatment. 46342

(3) The department of job and family services shall establish clinical standards to evaluate a child's physical or developmental handicap or mental or emotional condition and assess the child's need for services. 46343
46344
46345
46346

(4) The total dollar value of post adoption special services subsidy payments made on a child's behalf shall not exceed ten thousand dollars in any fiscal year, unless the department determines that extraordinary circumstances exist that necessitate further funding of services for the child. Under such extraordinary circumstances, the value of the payments made on the child's behalf shall not exceed fifteen thousand dollars in any fiscal year. 46347
46348
46349
46350
46351
46352
46353
46354

(5) The adoptive parent or parents of a child who receives post adoption special services subsidy payments shall pay at least five per cent of the total cost of all services provided to the child. 46355
46356
46357
46358

(6) A public children services agency may use other sources of revenue to make post adoption special services subsidy payments, in addition to any state funds appropriated for that purpose. 46359
46360
46361
46362

~~(D) No payment shall be made under division (B) or (C) of this section on behalf of any person eighteen years of age or older or, if mentally or physically handicapped, twenty-one years of age or older. Payments under those divisions shall be made in accordance with the terms of the agreement between the public children services agency and the adoptive parent, subject to an annual redetermination of need. The agency may use sources of funding in addition to any state funds appropriated for the purposes of those divisions.~~ 46363
46364
46365
46366
46367
46368
46369
46370
46371

(E) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that are 46372
46373

needed to implement this section. The rules shall establish all of 46374
the following: 46375

(1) The application process for ~~payments~~ all forms of 46376
assistance provided under this section; 46377

(2) The method to determine the ~~amounts and kinds~~ amount of 46378
assistance payable under division (B) of this section; 46379

(3) The definition of "child with special needs" for this 46380
section; 46381

(4) The process whereby a child's continuing need for 46382
services provided under division (B) of this section is annually 46383
redetermined; 46384

(5) The method of determining the amount, duration, and scope 46385
of services provided to a child under division (C) of this 46386
section; 46387

(6) Any other rule, requirement, or procedure the department 46388
considers appropriate for the implementation of this section. 46389

~~The rules shall allow for payments for children placed by~~ 46390
~~nonpublic agencies.~~ 46391

~~(E)~~(F) The state adoption special services subsidy program 46392
ceases to exist on July 1, 2004, except that, subject to the 46393
findings of the annual redetermination process established under 46394
division (E) of this section and the child's individual need for 46395
services, a public children services agency may continue to 46396
provide state adoption special services subsidy payments on behalf 46397
of a child for whom payments were being made prior to July 1, 46398
2004. 46399

(G) No public children services agency shall, pursuant to 46400
either section 2151.353 or 5103.15 of the Revised Code, place or 46401
maintain a child with special needs who is in the permanent 46402
custody of an institution or association certified by the 46403

department of job and family services under section 5103.03 of the Revised Code in a setting other than with a person seeking to adopt the child, unless the agency has determined and redetermined at intervals of not more than six months the impossibility of adoption by a person listed pursuant to division (B), (C), or (D) of section 5103.154 of the Revised Code, including the impossibility of entering into a payment agreement with such a person. The agency so maintaining such a child shall report its reasons for doing so to the department of job and family services. ~~No agency that fails to so determine, redetermine, and report shall receive more than fifty per cent of the state funds to which it would otherwise be eligible for that part of the fiscal year following placement under section 5101.14 of the Revised Code.~~

The department may take any action permitted under section 5101.24 of the Revised Code for an agency's failure to determine, redetermine, and report on a child's status.

Sec. 5153.60. (A) The department of job and family services shall establish a statewide program that provides ~~the~~ all of the following:

(1) The training section 5153.122 of the Revised Code requires public children services agency caseworkers and supervisors to complete. ~~The program may also provide the;~~

(2) The preplacement and continuing training described in sections 5103.034, 5103.039, 5103.0310, and 5103.0311 of the Revised Code that foster caregivers are required by sections 5103.031, 5103.032, and 5103.033 of the Revised Code to obtain. ~~The;~~

(3) The education programs for adoption assessors required by section 3107.014 of the Revised Code.

(B) The training described in division (A)(3) of this section

shall be conducted in accordance with rules adopted under section 3107.015 of the Revised Code. 46434
46435

(C) The program established pursuant to division (A) of this section shall be called the "Ohio child welfare training program." 46436
46437

Sec. 5153.69. The training program steering committee shall 46438
monitor and evaluate the Ohio child welfare training program to 46439
ensure the following: 46440

(A) That the Ohio child welfare training program is a 46441
competency-based training system that satisfies the training 46442
requirements for public children services agency caseworkers and 46443
supervisors under section 5153.122 of the Revised Code; 46444

(B) That, ~~if~~ the Ohio child welfare training program provides 46445
preplacement or continuing training for foster caregivers, ~~it as~~ 46446
required by section 5153.60 of the Revised Code that meets the 46447
~~same~~ requirements ~~that~~ preplacement training programs and 46448
continuing training programs must meet pursuant to section 46449
5103.038 of the Revised Code to obtain approval by the department 46450
of job and family services, except that the Ohio child welfare 46451
training program is not required to obtain department approval. 46452

Sec. 5153.72. Prior to the beginning of the fiscal biennium 46453
that first follows ~~the effective date of this section~~ October 5, 46454
2000, the public children services agencies of Athens, Cuyahoga, 46455
Franklin, Greene, Guernsey, Hamilton, Lucas, and Summit counties 46456
shall each establish and maintain a regional training center. At 46457
any time after the beginning of that biennium, the department of 46458
job and family services, on the recommendation of the training 46459
program steering committee, may direct a public children services 46460
agency to establish and maintain a training center to replace the 46461
center established by an agency under this section. There may be 46462
no more and no less than eight centers in existence at any time. 46463

The department may make a grant to a public children services agency that establishes and maintains a regional training center under this section for the purpose of wholly or partially subsidizing the operation of the center. 46464
46465
46466
46467

Sec. 5153.78. (A) As used in this section: 46468

(1) "Title IV-B" means Title IV-B of the "Social Security Act of 1967," 81 Stat. 821, 42 U.S.C. 620, as amended. 46469
46470

(2) "Title IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 670(1980). 46471
46472

(3) "Title XX" has the same meaning as in section 5101.46 of the Revised Code. 46473
46474

(B) For purposes of adequately funding the Ohio child welfare training program, the department of job and family services may use any of the following: 46475
46476
46477

(1) The federal financial participation funds withheld pursuant to division ~~(D)~~ (E) of section 5101.141 of the Revised Code in an amount determined by the department; 46478
46479
46480

(2) Funds available under Title XX, Title IV-B, and Title IV-E to pay for training costs; 46481
46482

(3) Other available state or federal funds. 46483

Sec. 5310.15. On filing an application for registration, the applicant shall pay to the clerk of the probate court or the clerk of the court of common pleas ten dollars, which is full payment for all clerk's fees and charges in such proceeding on behalf of the applicant. Any defendant, except a guardian ad litem, on entering ~~his~~ an appearance by filing a pleading of any kind, shall pay to the clerk five dollars, which is full payment for all clerk's fees on behalf of such defendant. When any number of defendants enter their appearance at the same time in one pleading 46484
46485
46486
46487
46488
46489
46490
46491
46492

by filing a pleading of any kind, one fee shall be paid. 46493

Every required publication in a newspaper shall be paid for 46494
by the party on whose application the order of publication is 46495
made, in addition to the fees prescribed in the first paragraph of 46496
this section. The party at whose request, or on whose behalf, any 46497
notice is issued, shall pay for the service of such notice except 46498
when such notice is sent by mail by the clerk or the county 46499
recorder. 46500

Examiners of titles shall receive for examining title or 46501
original reference, and making report on all matters arising under 46502
the application, including final certificate as to all necessary 46503
parties being made and properly brought before the probate court 46504
or the court of common pleas, and as to the proceedings being 46505
regular and legal, one half of one per cent of the appraised tax 46506
value, the fee in no case to be less than seventy-five or more 46507
than two hundred fifty dollars, for each separate and distinct 46508
parcel of land included in the application although made up of 46509
more than one tract. 46510

Upon a reference to an examiner of titles or to any other 46511
person upon a hearing to take evidence and make report to the 46512
court, the fee of the referee shall be fixed by the court at not 46513
more than fifteen dollars per day for the time actually employed. 46514

For a certificate of an examiner of titles that all necessary 46515
parties are before the court, and the proceedings are regular and 46516
legal in a suit for partition, foreclosure of mortgage, 46517
marshalling of liens, or other suit or proceeding affecting the 46518
title of any interest in, or lien or charge upon registered lands, 46519
the fees shall be fixed by the court, and shall not be more than 46520
twenty-five dollars for each separate and distinct parcel of land 46521
included in the petition or application although such parcel is 46522
made up of more than one tract. 46523

Guardians for the suit in original registration shall receive 46524
three dollars when there is no contest in which the guardian 46525
participates. In other cases such guardians shall receive such 46526
fees as the court fixes, but not more than twenty-five dollars. 46527

For certifying pending suits, judgments, liens, attachments, 46528
executions, or levies, the officers certifying them to the 46529
recorder shall receive a fee of twenty-five cents to be paid by 46530
the party interested and taxed in the costs of the case. 46531

For serving summons, notice, or other paper provided for in 46532
sections 5309.02 to 5310.21 of the Revised Code, the sheriff or 46533
other officer shall receive the same fees as in other similar 46534
cases. 46535

The recorder shall receive the following fees, to include 46536
base fees for services and housing trust fund fees pursuant to 46537
section 317.36 of the Revised Code: 46538

(A) For original registration of title, issuing duplicate 46539
certificate, entering memorials and memorandums, as directed by 46540
the decree, and indexing it, a base fee of thirty dollars and a 46541
housing trust fund fee of thirty dollars; 46542

(B) For examining and registering each transfer of registered 46543
land, including the filing of all papers therewith, entering 46544
memorials, issuing new duplicate certificate of title and indexing 46545
it, a base fee of thirty dollars and a housing trust fund fee of 46546
thirty dollars for the first distinct body or parcel of land 46547
contained in such certificate, and a base fee of two dollars and a 46548
housing trust fund fee of two dollars for each additional distinct 46549
body or parcel of land contained in such certificate; 46550

(C) For filing, examining, and entering a memorial of each 46551
mortgage or lease, upon registered land, and indexing it, for each 46552
separately registered parcel, a base fee of ten dollars and a 46553
housing trust fund fee of ten dollars; 46554

(D) For filing, examining, and entering a memorial of each 46555
lien, charge, or demand upon registered land, and indexing it, for 46556
each separately registered parcel of land, a base fee of five 46557
dollars and a housing trust fund fee of five dollars; 46558

(E) For cancellation of any memorial or memorandum, a base 46559
fee of five dollars and a housing trust fund fee of five dollars; 46560
for entry of change of address, or notice of dower, for each 46561
separately registered parcel, a base fee of five dollars and a 46562
housing trust fund fee of five dollars; 46563

(F) For each certified copy of a registered certificate, or 46564
issuing a mortgagee's duplicate certificate, or issuing a new 46565
owner's duplicate certificate to replace one which has been lost 46566
or destroyed, a base fee of fifteen dollars and a housing trust 46567
fund fee of fifteen dollars; 46568

(G) For filing, examining, and entering a memorial of each 46569
release, assignment, or waiver of priority of a mortgage, lease, 46570
lien, charge, or demand upon registered land and indexing it, for 46571
each separately registered parcel, a base fee of five dollars and 46572
a housing trust fund fee of five dollars; 46573

(H) For filing, examining, and entering a memorial of each 46574
official certificate of pending suit, judgment, lien, attachment, 46575
execution, or levy, upon registered land and indexing it, for each 46576
separately registered parcel, a base fee of five dollars and a 46577
housing trust fund fee of five dollars; 46578

(I) For continuing an owner's duplicate certificate, or 46579
mortgagee's duplicate certificate and entering and certifying 46580
memorials and notations thereon, a base fee of five dollars and a 46581
housing trust fund fee of five dollars; 46582

(J) For certificate as to taxes and special assessments, for 46583
each separately registered parcel, a base fee of ten dollars and a 46584
housing trust fund fee of ten dollars; 46585

(K) For filing, recording, and indexing any papers or 46586
instruments other than those provided in this section, any 46587
certified copy of record, or of any instrument on file in ~~his~~ the 46588
recorder's office, the same fees allowed by law for like services; 46589

(L) For issuing subpoenas and notices and swearing witnesses, 46590
the same fees allowed the clerk for like services. 46591

Costs as provided in this section may be taxed and by the 46592
court ordered to be paid by the parties in such manner as is just. 46593

Sec. 5501.03. (A) The department of transportation shall: 46594

(1) Exercise and perform such other duties, powers, and 46595
functions as are conferred by law on the director, the department, 46596
the assistant directors, the deputy directors, or on the divisions 46597
of the department; 46598

(2) Coordinate and develop, in cooperation with local, 46599
regional, state, and federal planning agencies and authorities, 46600
comprehensive and balanced state policy and planning to meet 46601
present and future needs for adequate transportation facilities in 46602
this state, including recommendations for adequate funding of the 46603
implementation of such planning; 46604

(3) Coordinate its activities with those of other appropriate 46605
state departments, public agencies, and authorities, and enter 46606
into any contracts with such departments, agencies, and 46607
authorities as may be necessary to carry out its duties, powers, 46608
and functions; 46609

(4) Cooperate with and assist the public utilities commission 46610
in the commission's administration of sections 4907.47 to 4907.476 46611
of the Revised Code, particularly with respect to the federal 46612
highway administration. 46613

(5) Give particular consideration to the development of 46614
policy and planning for public transportation facilities, and to 46615

the coordination of associated activities relating thereto, as 46616
prescribed under divisions (A)(2) and (3) of this section; 46617

(6) Conduct, in cooperation with the Ohio legislative service 46618
commission, any studies or comparisons of state traffic laws and 46619
local traffic ordinances with model laws and ordinances that may 46620
be required to meet program standards adopted by the United States 46621
department of transportation pursuant to the "Highway Safety Act 46622
of 1966," 80 Stat. 731, U.S.C.A. 401; 46623

(7) Prepare, print, distribute, and advertise books, maps, 46624
pamphlets, and other information that, in the judgment of the 46625
director, will inform the public and other governmental 46626
departments, agencies, and authorities as to the duties, powers, 46627
and functions of the department; 46628

(8) In its research and development program, consider 46629
technologies for improving roadways, including construction 46630
techniques and materials to prolong project life, being used or 46631
developed by other states that have geographic, geologic, or 46632
climatic features similar to this state's, and collaborate with 46633
those states in that development. 46634

Nothing contained in division (A)(1) of this section shall be 46635
held to in any manner affect, limit, restrict, or otherwise 46636
interfere with the exercise of powers relating to transportation 46637
facilities by appropriate agencies of the federal government, or 46638
by counties, municipal corporations, or other political 46639
subdivisions or special districts in this state authorized by law 46640
to exercise such powers. 46641

(B) The department may use all appropriate sources of revenue 46642
to assist in the development and implementation of rail service as 46643
defined by division (C) of section ~~4981.01~~ 5507.01 of the Revised 46644
Code. 46645

(C) The director of transportation may enter into contracts 46646

with public agencies including political subdivisions, other state 46647
agencies, boards, commissions, regional transit authorities, 46648
county transit boards, and port authorities, to administer the 46649
design, qualification of bidders, competitive bid letting, 46650
construction inspection, and acceptance of any projects 46651
administered by the department, provided the administration of 46652
such projects is performed in accordance with all applicable state 46653
and federal laws and regulations with oversight by the department. 46654

Sec. 5502.13. The department of public safety shall maintain 46655
an investigative unit in order to conduct investigations and other 46656
enforcement activity authorized by Chapters 4301., 4303., 5101., 46657
5107., ~~and 5108.,~~ and 5115. and sections 2903.12, 2903.13, 46658
2903.14, 2907.09, 2913.46, 2917.11, 2921.13, 2921.31, 2921.32, 46659
2921.33, 2923.12, 2923.121, 2925.11, 2925.13, 2927.02, and 46660
4507.30, ~~and 5115.03~~ of the Revised Code. The director of public 46661
safety shall appoint the employees of the unit who are necessary, 46662
designate the activities to be performed by those employees, and 46663
prescribe their titles and duties. 46664

Sec. ~~4981.01~~ 5507.01. As used in sections ~~4981.01~~ 5507.01 to 46665
~~4981.34~~ 5507.34 of the Revised Code: 46666

(A) "Person" means, in addition to the meaning given that 46667
term in division (C) of section 1.59 of the Revised Code, any unit 46668
of local government, any local or regional transportation 46669
authority, and any private corporation or organization. 46670

(B) "Rail property" means any asset or right that is used or 46671
is useful in providing rail service, including tracks, rolling 46672
stock, rights-of-way, bridges, grade crossing equipment, 46673
terminals, stations, parking facilities, and other rail 46674
facilities. 46675

(C) "Rail service" means freight, intercity passenger, 46676

commuter, and high speed rail transportation service. 46677

(D) "Regional rail reorganization act" means the "Regional 46678
Rail Reorganization Act of 1973," 87 Stat. 986, 45 U.S.C.A. 701, 46679
as amended. 46680

(E) "Local or regional transportation authority" includes a 46681
county transit board, a board of county commissioners operating a 46682
county transit system, a regional transit authority, a regional 46683
transit commission, or any other local or regional transportation 46684
authority or agency. 46685

(F) "Qualifying subdivision" means a county, township, or 46686
municipal corporation in this state that is levying a tax for the 46687
purpose of acquiring, rehabilitating, or developing rail service 46688
or rail property pursuant to division (CC) of section 5705.19 of 46689
the Revised Code. 46690

(G) "Ancillary system facilities" means all facilities 46691
desirable in connection with the operation and maintenance of a 46692
rail system such as parking lots, retail establishments, 46693
restaurants, hotels, offices, and other commercial or support 46694
facilities, located within or outside the right-of-way of the rail 46695
system. 46696

(H) "Corridor" means a designated portion of a rail system 46697
serving two or more designated urban areas. 46698

(I) "Franchise" means a license approved by the ~~Ohio rail~~ 46699
~~development commission~~ director of transportation that grants 46700
exclusive rights to a private corporation or organization to plan, 46701
construct, finance, lease, improve, use, operate, maintain, and 46702
set and collect charges for the use of a rail system or a portion 46703
of a rail system, such as a corridor, for a period of years as 46704
permitted by section ~~4981.29~~ 5507.29 of the Revised Code, as 46705
system owner or as lessee from or agent of the ~~commission~~ 46706
department of transportation. 46707

(J) "Franchise agreement" means the agreement executed 46708
between the ~~Ohio rail development commission~~ director of 46709
transportation and a person to whom a franchise is awarded. 46710

(K) "3-C corridor" means the corridor connecting Cincinnati, 46711
Columbus, and Cleveland. 46712

Sec. ~~4981.03~~ 5507.03. (A) The ~~Ohio rail development~~ 46713
~~commission~~ director of transportation shall do all of the 46714
following: 46715

(1) Develop, promote, and support safe, adequate, and 46716
efficient rail service throughout the state; 46717

(2) Maintain adequate programs of investigation, research, 46718
promotion, planning, and development for rail service, which 46719
programs shall include the consideration of recommendations by 46720
public or private planning organizations; 46721

(3) Provide for the participation of private corporations or 46722
organizations and the public in the development, construction, 46723
operation, and maintenance of rail service, and as franchisees 46724
thereof. 46725

(B) In regard to rail service, the ~~Ohio rail development~~ 46726
~~commission~~ department of transportation is the successor of the 46727
Ohio ~~high speed rail authority and the division of rail~~ 46728
~~transportation of the department of transportation~~ development 46729
commission. The ~~commission~~ department shall succeed to all federal 46730
allotments, entitlements, subsidies, and grants now existing, 46731
whether such allotments, entitlements, subsidies, and grants are 46732
encumbered or unencumbered, in the same manner and with the same 46733
authority as the Ohio ~~high speed rail authority and the division~~ 46734
~~of rail transportation~~ development commission exercised prior to 46735
~~the effective date of this amendment~~ the effective date of this 46736
amendment. 46737

For the purpose of succession to all duties, powers, and functions transferred, and of the conduct and completion of related matters, the director of transportation or the department of transportation shall be held to constitute the continuation of the Ohio rail development commission. All rules, acts, determinations, and decisions pertaining to the duties, powers, and functions of the commission, in effect at the time of the transfer, shall continue in effect until further action by the director of the department. 46738
46739
46740
46741
46742
46743
46744
46745
46746

Wherever the commission is referred to in any provision of law, or in any contract or document that pertains to the duties, powers, and functions of the commission, the reference or designation shall be held to refer to the director or the department. Wherever the commission is named in a deed or other evidence of an interest in real property, the designation shall be held to refer to the director or the department. 46747
46748
46749
46750
46751
46752
46753

No pending action or proceeding to which the commission is a party and that pertains to the duties, powers, and functions of the commission shall be affected by any provision effecting the transfer of the duties, powers, and functions, but any such pending action or proceeding may be prosecuted or defended in the name of the director or department. In any pending action or proceeding to which the commission is a party and that pertains to its duties, powers, and functions, the director or department, upon application to the court, shall be substituted as a party. 46754
46755
46756
46757
46758
46759
46760
46761
46762

(C) Every authority, commission, department, or other agency of this state shall provide the ~~commission~~ department with data, plans, research, and any other information that the ~~commission~~ department requests to assist it in performing its duties pursuant to this chapter. 46763
46764
46765
46766
46767

(D) The ~~commission~~ department may request and contract with 46768

any railroad to provide it with data and information necessary to 46769
carry out the purposes of this chapter. All railroads operating 46770
within this state shall provide the requested data and information 46771
to the ~~commission~~ department. The ~~commission~~ department shall not 46772
disclose any confidential data or information supplied to it. 46773

(E) The ~~commission~~ department shall cooperate with the 46774
director of development by exercising the ~~commission's~~ 46775
department's duty to promote and develop rail service in this 46776
state in conjunction with the ~~director's~~ director of development's 46777
exercise of ~~his~~ the duty to promote the economic development of 46778
this state. 46779

(F) The ~~commission~~ department, when developing rail service 46780
throughout the state, may give priority to projects undertaken 46781
within the geographic boundaries of qualifying subdivisions. 46782

~~(G) Notwithstanding any other provision of law, the 46783
commission is subject to section 123.151 of the Revised Code when 46784
entering into contracts for the performance of labor, the 46785
furnishing of materials, goods, or services, or the construction 46786
of any structures or buildings necessary for the maintenance, 46787
control, or management of any rail service project, as defined in 46788
section 4981.11 of the Revised Code. 46789~~

Sec. ~~4981.031~~ 5507.031. (A) The ~~Ohio rail development 46790
commission or the department of transportation, on behalf of the 46791
commission,~~ may apply for and receive from the United States 46792
government loans and grants in accordance with any federal law or 46793
program concerning rail transportation. 46794

(B) It is hereby found and determined that rail 46795
transportation is an essential and indispensable part of the 46796
commerce and industry of the state and is of vital importance to 46797
the creation and preservation of jobs and employment opportunities 46798
and to the improvement of the economic welfare of the people of 46799

the state, and that rail transportation creates, promotes, and is 46800
a part of the continuous exchange of goods and services in the 46801
state economy. It is further found and determined that the 46802
authority granted by Chapter ~~4981-~~ 5507. of the Revised Code is 46803
consistent with and will effect the purposes of Section 13 of 46804
Article VIII, Ohio Constitution, that rail transportation is part 46805
of and is directly related to industry, commerce, distribution, 46806
and research under Section 13 of Article VIII, Ohio Constitution, 46807
and that it is in the public interest and a proper public purpose 46808
under Section 13 of Article VIII, Ohio Constitution, for the state 46809
to acquire, construct, enlarge, improve, or equip, and to sell, 46810
lease, or exchange, or otherwise dispose of property, structures, 46811
equipment, and facilities for rail transportation, all as provided 46812
in Chapter ~~4981-~~ 5507. of the Revised Code, and that such 46813
activities will contribute to the creation or preservation of jobs 46814
or employment opportunities or the improvement of the economic 46815
welfare of the people of the state. Chapter ~~4981-~~ 5507. of the 46816
Revised Code, being necessary for the welfare of the state and its 46817
people, shall be liberally construed to effect its purposes. 46818

Sec. ~~4981.032~~ 5507.032. The ~~Ohio rail development commission~~ 46819
department of transportation may issue grants and loans to any 46820
transportation authority or to any person for the purpose of 46821
continuing or instituting rail transportation in the state. The 46822
grants and loans may be used for rehabilitation, construction, 46823
planning, relocation, or acquisition of rail transportation or 46824
rail property, or for substitute service. The grants and loans may 46825
be provided by the ~~commission~~ department with funds from the 46826
United States government, the state, any transportation authority, 46827
or any person, or from any combination of those sources. The 46828
~~commission~~ department shall establish eligibility and distribution 46829
criteria for the grants and loans. 46830

Sec. ~~4981.033~~ 5507.033. (A) Notwithstanding section 4961.37 46831
of the Revised Code, a railroad company, public agency, or other 46832
person operating passenger rail service on a right-of-way owned by 46833
another shall indemnify and hold harmless the owner, user, or 46834
other rights holder for liability for any damages arising out of 46835
passenger operations conducted by or on behalf of the railroad 46836
company, public agency, or other person operating passenger rail 46837
service and for all claims for damages for harm arising from any 46838
accident or incident occurring in connection with the operations 46839
conducted by or on behalf of the railroad company, public agency, 46840
or other person operating passenger rail service. 46841

(B) Each railroad company, public agency, or other person 46842
operating passenger rail service on a right-of-way owned by 46843
another shall maintain an aggregate limit of liability coverage of 46844
no less than two hundred million dollars. 46845

(C) The liability for damages for harm, including any 46846
punitive damages, of a railroad company or other entity over whose 46847
tracks passenger rail service operations are conducted by another 46848
shall not be in an amount greater than the limits of the liability 46849
coverage maintained by the railroad company, public agency, or 46850
other person operating passenger rail service. 46851

(D) Division (A) of this section shall not apply if the 46852
railroad company or other entity over whose tracks the passenger 46853
rail service operations are conducted, committed an act or 46854
omission with reckless, wanton, willful, or gross negligence and 46855
the act or omission proximately caused the harm in question. 46856

(E) The operator of an excursion rail service and the owner 46857
of any railroad property over which the excursion rail service 46858
will be provided may negotiate to determine the amount of 46859
liability coverage necessary to satisfy the owner's private 46860
insurance requirements. If the operator and owner reach agreement 46861

on the amount of private insurance coverage so required, division 46862
(B) of this section shall not apply to the operation of the 46863
excursion rail service over that railroad property. 46864

This division does not require any owner of railroad property 46865
to enter into such negotiations, to agree to an amount of 46866
liability coverage that the owner determines to be insufficient 46867
indemnification, nor to permit any excursion rail service operator 46868
to have access to the railroad property. 46869

(F) This section shall not be construed to require the state 46870
or any political subdivision of the state to indemnify any owner, 46871
user, or other person or entity for damages of any kind in 46872
violation of the Constitution of this state or a municipal or 46873
county charter. This section shall not be construed to require the 46874
state to carry liability insurance for any purpose. 46875

(G) As used in this section: 46876

(1) "Harm" means injury, death, or loss to person or 46877
property. 46878

(2) "Passenger rail service" includes intercity passenger, 46879
commuter, or high speed rail transportation service. 46880

(3) "Excursion rail service" means any rail passenger service 46881
that is undertaken primarily for education, entertainment, 46882
recreation, or scenic observation and that does not involve any of 46883
the following: 46884

(a) The carrying of freight other than the personal luggage 46885
of the passengers or crew, or supplies and equipment necessary to 46886
serve the needs of the passengers or crew; 46887

(b) The carrying of passengers who are commuting to work; 46888

(c) The carrying of passengers who are traveling to a final 46889
destination solely for business or commercial purposes. 46890

Sec. ~~4981.04~~ 5507.04. (A) The ~~Ohio rail development~~ 46891
~~commission~~ department of transportation shall prepare a plan for 46892
the construction and operation of an intercity conventional or 46893
high speed passenger transportation system in this state. The 46894
system shall be constructed and operated by the ~~commission~~ 46895
department. The plan for construction and operation shall be based 46896
on existing studies, and shall state that the system's initial 46897
route will connect Cleveland, Columbus, and Cincinnati and any 46898
points in between those cities determined by the ~~authority~~ 46899
department. The plan shall include the following information: 46900

- (1) The route alignment of the proposed system; 46901
- (2) The proposed technology; 46902
- (3) The size, nature, and scope of the proposed system; 46903
- (4) The sources of the public and private revenue needed to 46904
finance the system; 46905
- (5) The projected ability of all revenue sources to meet both 46906
capital and operating funding requirements of the proposed system; 46907
- (6) The construction, operation, and management plan for the 46908
system, including a timetable for construction and the proposed 46909
location and number of transit stations considered necessary; 46910
- (7) The likelihood that Ohio-based corporations will be used 46911
to manufacture or supply components of the proposed system; 46912
- (8) The likelihood that additional or subsidiary development 46913
will be generated; 46914
- (9) The extent to which the proposed system will create an 46915
additional or reduced demand for sources of energy; 46916
- (10) Any changes in the law necessary to implement the 46917
proposed system; 46918
- (11) The proposed system's impact on the economy of the state 46919

and on the economic and other public policies of the state. 46920

(B) The ~~commission~~ department may revise any plan of the Ohio 46921
high speed rail authority or the Ohio rail development commission 46922
or may submit a separate plan for construction and operation and a 46923
funding request to the governor, the speaker of the house of 46924
representatives, and to the president of the senate. Any plan for 46925
an intercity conventional or high speed passenger transportation 46926
system submitted by the ~~commission~~ department pursuant to this 46927
section shall not propose the operation of such a system by the 46928
state other than through the ~~commission~~ department. 46929

Sec. ~~4981.05~~ 5507.05. (A) Any local or regional 46930
transportation authority may apply for a rail service continuation 46931
subsidy, acquisition or modernization loan, or any other 46932
assistance provided by the Regional Rail Reorganization Act for 46933
the purpose of providing any rail service that is consistent with 46934
rail service provided under this chapter. Any local or regional 46935
transportation authority may exercise, or may be created to 46936
exercise, such authority, administrative jurisdiction, and fiscal 46937
control as is necessary to obtain such assistance and provide such 46938
rail service. 46939

(B) For the purposes of this section, "transit system" as 46940
used in section 306.04 of the Revised Code, and "transit facility" 46941
as used in sections 306.30 and 306.81 of the Revised Code, include 46942
rail service. 46943

Sec. ~~4981.06~~ 5507.06. (A) The ~~Ohio rail development~~ 46944
~~commission~~ department of transportation may purchase or lease any 46945
portion of the rail property of a railroad corporation, and may 46946
purchase or lease any other property, facilities, or equipment 46947
considered necessary by the ~~commission~~ department for the 46948
operation of rail services, and the maintenance of track and other 46949

rail property. For the purpose of acquiring such property the 46950
~~commission~~ department may obtain acquisition loans from the 46951
federal government. 46952

(B) Where it is necessary for the purpose of implementing 46953
rail service under this chapter, the ~~commission, with the approval~~ 46954
~~of the director of transportation,~~ department may appropriate real 46955
property. All such appropriations shall be made pursuant to 46956
sections 163.01 to 163.22 of the Revised Code. 46957

Sec. ~~4981.07~~ 5507.07. (A) The ~~Ohio rail development~~ 46958
~~commission~~ department of transportation may restore, repair, 46959
relocate, or upgrade any rail property purchased, leased, or 46960
maintained by the ~~commission~~ department. The ~~commission~~ department 46961
may restore, repair, relocate, or upgrade any rail property owned 46962
by another person as long as such action is necessary for the 46963
efficient operation of rail services provided by the ~~commission~~ 46964
department. The ~~commission~~ department may obtain modernization 46965
loans from the federal government to restore or repair rail 46966
property acquired by the ~~commission~~ department for the purpose of 46967
implementing rail service. 46968

(B) The ~~commission~~ department may operate any rail property 46969
acquired by it over track owned or leased by the ~~commission~~ 46970
department, or over track owned by another person pursuant to an 46971
agreement with that person as long as such action is necessary for 46972
the efficient operation of rail service provided by the ~~commission~~ 46973
department pursuant to this chapter. 46974

(C) The ~~commission~~ department may enter into agreements with 46975
~~the department of transportation,~~ boards of county commissioners, 46976
boards of township trustees, legislative authorities of municipal 46977
corporations, with other governmental agencies or organizations, 46978
and with private corporations or organizations in order to 46979
facilitate implementation of rail service. 46980

Sec. ~~4981.08~~ 5507.08. (A) The ~~Ohio rail development~~ 46981
~~commission~~ department of transportation may sell, transfer, or 46982
lease any of the rail property that it possesses to any person for 46983
the continuation and operation of any rail service that is 46984
provided for pursuant to this chapter. 46985

(B) The ~~commission~~ department may assist any person to obtain 46986
~~an~~ any order or certificate required by the ~~interstate commerce~~ 46987
~~commission~~ surface transportation board for the performance of 46988
rail services in this state. 46989

(C) The ~~commission~~ department may cooperate with other states 46990
in carrying out the provisions of this chapter and may enter into 46991
any agreements with other states for the operation of rail 46992
services, including the joint purchasing or leasing of rail 46993
property. 46994

Sec. ~~4981.09~~ 5507.09. There is hereby created in the state 46995
treasury the rail development fund. The fund shall consist of such 46996
moneys as may be provided by law, including moneys received from 46997
the sale, transfer, or lease of any rail property pursuant to 46998
section ~~4981.08~~ 5507.08 of the Revised Code. Moneys in the fund 46999
shall be used for the purpose of acquiring, rehabilitating, or 47000
developing rail property or service, or for participation in the 47001
acquisition of rail property with the federal government, 47002
municipal corporations, townships, counties, or other governmental 47003
agencies. For the purpose of acquiring such rail property, the 47004
~~Ohio rail development commission~~ department of transportation may 47005
obtain acquisition loans from the federal government or from any 47006
other source. 47007

The fund shall also be used to promote, plan, design, 47008
construct, operate, and maintain passenger and freight rail 47009
transportation systems, and may be used to pay the administrative 47010

costs of the ~~Ohio rail development commission~~ department 47011
associated with conducting any authorized rail program, and for 47012
any purpose authorized by sections ~~4981.03~~ and 5501.56 and 5507.03 47013
of the Revised Code. The fund shall not be used to provide loan 47014
guarantees. 47015

Sec. ~~4981.091~~ 5507.091. There is hereby created in the state 47016
treasury the federal rail fund. The fund shall consist of money 47017
received pursuant to section ~~4981.08~~ 5507.08 of the Revised Code 47018
and such other money as may be provided by law. The fund shall be 47019
used to acquire, rehabilitate, or develop rail property or 47020
service; to participate in the acquisition of rail property with 47021
the federal government, municipal corporations, townships, 47022
counties, or other governmental agencies; and to promote, plan, 47023
design, construct, operate, and maintain passenger and freight 47024
rail transportation systems. The fund also may be used to pay the 47025
administrative costs of the ~~Ohio rail development commission~~ 47026
department of transportation associated with conducting any 47027
authorized rail program, and for any purpose authorized by 47028
sections ~~4981.03~~ and 5501.56 and 5507.03 of the Revised Code. The 47029
fund shall not be used to provide loan guarantees. Investment 47030
earnings on moneys credited to the fund shall be retained by the 47031
fund. 47032

In acquiring rail property, the ~~Ohio rail development~~ 47033
~~commission~~ department may obtain acquisition loans from the 47034
federal government or from any other source. 47035

Sec. ~~4981.10~~ 5507.10. As long as such action does not violate 47036
covenants made on behalf of or for the benefit of the holders of 47037
bonds, notes, or other obligations of the ~~Ohio rail development~~ 47038
~~commission~~ department of transportation, the ~~Ohio rail development~~ 47039
~~commission~~ department may purchase any portion of the rail 47040
property of a railroad corporation and may purchase any other 47041

property, facilities, or equipment considered necessary by the 47042
~~commission department~~ for the operation of rail services, ~~subject~~ 47043
~~to the following conditions:~~ 47044

~~(A) Upon if, upon~~ inspection of the rail property, the 47045
~~commission department~~ determines that the rail property is 47046
suitable for the efficient operation of rail services. 47047

~~(B) The controlling board approves the purchase of the rail~~ 47048
~~property by an affirmative vote of no fewer than five members.~~ 47049

Sec. 4981.11 5507.11. As used in sections 5507.11 to 5507.26 47050
of the Revised Code: 47051

(A) ~~"Commission"~~ "Department" means the ~~Ohio rail development~~ 47052
~~commission created in section 4981.02 of the Revised Code, the~~ 47053
~~duties, powers, responsibilities, and functions of which are~~ 47054
~~specified in this chapter~~ department of transportation. 47055

(B) "Bond" means revenue bonds, notes, or other obligations 47056
including current or advance refunding bonds issued by the 47057
~~commission department~~ to effect the intents and purposes of this 47058
chapter and any bond issued by a qualifying subdivision or local 47059
or regional transportation authority pursuant to Chapter 133. of 47060
the Revised Code ~~or otherwise as provided by the constitution and~~ 47061
~~laws of this state.~~ 47062

(C) "Bond proceedings" means any bond proceedings, as defined 47063
in division (E) of section 9.98 of the Revised Code, with respect 47064
to bonds, including, without limitation, the bond legislation with 47065
respect thereto. 47066

(D) "Cost," as applied to rail service projects, means the 47067
cost of acquisition, repair, renovation, and construction thereof; 47068
the cost of acquisition of all land, rights-of-way, property 47069
rights, easements, franchise rights, credit enhancements, or 47070
credit facility and interests required by any person, qualifying 47071

subdivision, a local or regional transportation authority, or the 47072
~~commission~~ department for such acquisition, renovation, repair, or 47073
construction, the cost of demolishing or removing any buildings or 47074
structures on land so acquired, including the cost of acquiring 47075
any lands to which buildings or structures may be moved; the cost 47076
of diverting highways, interchange of highways, access roads to 47077
private property, railroad rights-of-way including the cost of 47078
land or easement therefor; the cost of all machinery, furnishing, 47079
and equipment; all finance charges, and interest prior to and 47080
during the construction and for no more than eighteen months after 47081
completion of construction or acquisition; the cost of all legal 47082
services and expenses; the cost of all plans, specifications, 47083
surveys, and estimates of cost; all working capital and other 47084
expenses necessary or incident to determining the feasibility or 47085
practicability of acquiring, renovating, repairing, or 47086
constructing any such project; the financing of such acquisition, 47087
renovation, repair, refunding, or construction, including the 47088
amount authorized ~~in the resolution of the commission providing~~ 47089
for the issuance of bonds to be paid into any special funds from 47090
the proceeds of such bonds; and the financing of the placing of 47091
any such rail service project in operation, if necessary. ~~Any~~ 47092

Any obligations or expenses incurred after December 19, 1986, 47093
by any person, qualifying subdivision, or local or regional 47094
transportation authority, with the approval of the ~~commission~~ 47095
department, for surveys, borings, preparation of plans and 47096
specifications, and other engineering services in connection with 47097
the acquisition, renovation, repair, or construction of a project 47098
shall be regarded as a part of the cost of such project and shall 47099
be reimbursed out of the proceeds of grants, loans, or bonds as 47100
authorized by this chapter. 47101

(E) "Credit facility" means any credit facility, as defined 47102
in division (G) of section 9.98 of the Revised Code, with respect 47103

to bonds.	47104
(F) "Floating rate interest structure" means any floating rate interest structure, as defined in division (I) of section 9.98 of the Revised Code, with respect to bonds.	47105 47106 47107
(G) "Indexing agent" means any indexing agent, as defined in division (J) of section 9.98 of the Revised Code, with respect to bonds.	47108 47109 47110
(H) "Rail service project" or "project" means any project of an essential public nature which is considered a part of the rail service system, including, without limitation, permitted loan purposes which are specifically declared to be for an essential public purpose.	47111 47112 47113 47114 47115
(I) "Interest rate period" means any interest rate period, as defined in division (K) of section 9.98 of the Revised Code, with respect to bonds.	47116 47117 47118
(J) "Issuer" means the commission <u>department</u> .	47119
(K) "Participation agreement" means any participation agreement, loan agreement, lease agreement, bond purchase agreement, or other agreement between or among any person, qualifying subdivision, or local or regional transportation authority and the commission <u>department</u> pursuant to which the commission <u>department</u> agrees to lend moneys to the person, qualified subdivision, or local or regional transportation authority, and the person, qualifying subdivision, or local or regional transportation authority agrees to repay the moneys so lent, in accordance with this chapter and the applicable bond proceedings and on the terms and subject to the conditions set forth in such agreement.	47120 47121 47122 47123 47124 47125 47126 47127 47128 47129 47130 47131
(L) "Permitted loan purpose" means any of the following:	47132
(1) The payment of the costs of the acquisition or	47133

construction of any property, asset, or improvement with an 47134
estimated life or usefulness of one year or more, including land 47135
and interests therein, and including reconstructions, 47136
enlargements, and extensions of any such property, asset, or 47137
improvement having an estimated life or usefulness of one year or 47138
more, of the ~~commission~~ department provided that such estimated 47139
life or usefulness shall be certified by the fiscal officer of the 47140
person, qualifying subdivision, or local or regional 47141
transportation authority to which the loan is to be made to that 47142
person, qualifying subdivision, or local or regional 47143
transportation authority; 47144

(2) The payment of any final judgment, regardless of whether 47145
such judgment arose out of a contractual or noncontractual cause 47146
of action; 47147

(3) The reimbursement to any person, qualifying subdivision, 47148
or local or regional transportation authority of moneys expended 47149
by it for a permitted loan purpose described in divisions (L)(1) 47150
and (2) of this section, including, without limitation, rental 47151
payments made by any person, qualifying subdivision, or local or 47152
regional transportation authority under a lease with an option to 47153
purchase if the proceeds of the loan are to be applied to the 47154
payment of the purchase price upon the exercise of the option to 47155
purchase; 47156

(4) The refunding, including funding and retirement, or 47157
advance refunding of the outstanding principal amount of any debt 47158
obligation issued or incurred by the ~~commission~~ department or by 47159
any person, qualifying subdivision, or local or regional 47160
transportation authority, including, without limitation, any loan 47161
previously made from the ~~commission~~ department for a permitted 47162
loan purpose of the sort described in divisions (L)(1) and (2) of 47163
this section; 47164

(5) The costs and expenses incurred by the ~~commission~~ 47165

department or by any person, qualifying subdivision, or local or 47166
regional transportation authority in obtaining a loan from the 47167
~~commission~~ department, including, without limitation, the fees and 47168
expenses of attorneys, accountants, engineers, and consultants and 47169
the costs and expenses of preparing, printing, and delivering any 47170
documents or instruments required to be delivered by any person, 47171
qualifying subdivision, or local or regional transportation 47172
authority under its participation agreement with the ~~commission~~ 47173
department. 47174

(M) "Person" means any natural person, partnership, joint 47175
venture, corporation, foreign or domestic, state or subdivision 47176
thereof, or sovereign government, or province thereof including 47177
the United States or any agency or instrumentality thereof. 47178

(N) "Put arrangement" means any put arrangement, as defined 47179
in division (N) of section 9.98 of the Revised Code, with respect 47180
to bonds. 47181

(O) "Remarketing agent" means a remarketing agent as defined 47182
in division (O) of section 9.98 of the Revised Code, with respect 47183
to bonds. 47184

(P) "Revenue" means any money or thing of value collected by, 47185
or paid to, the ~~commission~~ department in connection with any rail 47186
project or as principal of or interest, charges, or other fees on 47187
loans, including any moneys derived from taxation or any other 47188
collections on loans made by the ~~commission~~ department to any 47189
person, qualifying subdivisions, or local or regional 47190
transportation authorities to finance in whole or in part the 47191
acquisition, renovation, repair, refunding, or construction of any 47192
rail service project or projects, or other money or property which 47193
is received by the ~~commission~~ department and may be expended for 47194
or pledged as revenues pursuant to this chapter. 47195

(Q) "Special fund" means any fund required to be established 47196

by the ~~commission~~ department pursuant to the bond proceedings with 47197
respect to any bonds and into which the bond proceedings require 47198
that pledged receipts be deposited and from which the bond 47199
proceedings permit the disbursement of the pledged receipts at the 47200
times, in the amounts, and for the purposes set forth therein. 47201

(R) "Special revenue loan" means a loan to a qualifying 47202
subdivision or local or regional transportation authority by the 47203
~~commission~~ department that is payable solely from and secured 47204
solely by one or more sources of county or municipal tax or other 47205
revenue other than ad valorem property taxes. 47206

Sec. ~~4981.12~~ 5507.12. (A) The general assembly hereby finds 47207
and declares that increasing requirements for rail service for the 47208
people of the state and escalating costs of providing such rail 47209
service have created inordinate demands upon the financial 47210
resources of the state, qualifying subdivisions, private 47211
corporations and organizations, and local and regional 47212
transportation authorities necessitating legislation to enable the 47213
people of the state to attain a more competitive position in 47214
capital markets to provide rail service. 47215

(B) The general assembly hereby finds and declares further 47216
that it is in the public interest and is the responsibility of the 47217
state to foster and promote by all lawful means the provision of 47218
adequate capital markets and facilities for borrowing money for 47219
the financing of rail service and the fulfillment of public 47220
purposes, and to make it possible for the ~~commission~~ department of 47221
transportation, qualifying subdivisions, private corporations or 47222
organizations, and local or regional transportation authorities to 47223
obtain new or additional sources of capital funds at acceptable 47224
interest costs, including activities to encourage investor 47225
interest in the purchase of bonds, notes or other obligations of 47226
the ~~commission~~ department, or issued by the ~~commission~~ department 47227

to fund loans it may make to private corporations or organizations 47228
under sections ~~4981.01~~ 5507.01 to ~~4981.26~~ 5507.26 of the Revised 47229
Code, as sound and preferred securities for investments. 47230

(C) The general assembly hereby finds and declares further 47231
that it is in the public interest and is the responsibility of the 47232
state to encourage qualifying subdivisions, local or regional 47233
transportation authorities, and other persons to continue their 47234
independent undertakings of rail service and fulfillment of public 47235
purposes and the financing thereof and to improve or enhance the 47236
possibilities of qualifying subdivisions, local or regional 47237
transportation authorities, and other persons obtaining funds, to 47238
the extent possible, at reduced interest costs, for the orderly 47239
financing of rail service projects and fulfillment of public 47240
purposes. 47241

(D) The general assembly hereby finds and declares further 47242
that it is in the public interest, in order to implement and aid 47243
in the discharge of these responsibilities, that a state 47244
instrumentality, having been created as a public body corporate 47245
with full powers to borrow money and issue its bonds, notes, and 47246
other obligations to the end that funds obtained thereby may be 47247
used or made available to franchisees to provide capital 47248
facilities for rail service by the ~~commission~~ department or for 47249
the purposes of making loans to qualifying subdivisions, local or 47250
regional transportation authorities, private corporations or 47251
organizations, and other persons for rail service projects, that 47252
such state instrumentality be granted all powers necessary or 47253
appropriate to accomplish and carry out these essential public 47254
purposes and responsibilities of the state in a manner to make it 47255
possible to sell bonds and borrow funds at as low an interest rate 47256
as the instrumentality finds and determines to be feasible. 47257

(E) The general assembly further finds and declares that in 47258
accomplishing these purposes, the ~~commission, created and~~ 47259

~~established by this chapter, department~~ will be acting in all 47260
respects for the benefit of the people of the state to serve the 47261
public purposes of improving and otherwise promoting their health, 47262
education, welfare, safety, and prosperity, and that the 47263
~~commission~~ department may act on behalf of the state and its 47264
people in serving the essential public purposes described in this 47265
section for the benefit of the general public of the state. 47266

Sec. ~~4981.13~~ 5507.13. To accomplish the public policies and 47267
purposes and to meet the responsibility of the state as set forth 47268
in this chapter, the ~~Ohio rail development commission~~ department 47269
of transportation may directly undertake and implement and make 47270
loans to qualifying subdivisions, local or regional transportation 47271
authorities, and other persons for the acquisition, renovation, 47272
repair, refunding, or construction of rail service projects by 47273
such qualifying subdivisions and local or regional transportation 47274
authorities, and may issue bonds, payable solely from revenues, to 47275
pay the cost of, or finance, in whole or in part, rail service 47276
projects of the ~~commission~~ department or loans to any person, 47277
qualifying subdivision, or local or regional transportation 47278
authority. A project shall not be undertaken unless it has been 47279
determined by the ~~commission~~ department, based upon information 47280
provided to it by the qualifying subdivision, local or regional 47281
transportation authority, or other person or agency charged or 47282
empowered by law with the responsibility of reporting, to be 47283
consistent with any applicable requirements of law. ~~Any resolution~~ 47284
~~of the commission providing for making a loan for any permitted~~ 47285
~~loan purpose or execution of any participation agreement pursuant~~ 47286
~~to this chapter shall include a finding by the commission that~~ 47287
~~such determinations have been made.~~ A participation agreement may 47288
be entered into between the ~~commission~~ department and each 47289
qualifying subdivision, local or regional transportation 47290
authority, or other person to which a loan is made or from which 47291

bonds are purchased for the acquisition, renovation, repair, or 47292
construction of a rail service project, which participation 47293
agreement shall include, without limitation, all of the following 47294
provisions: 47295

(A) The cost of such project, the amount of the loan or bond 47296
purchase, the terms of repayment of such loan or bond purchase and 47297
the security therefor; 47298

(B) The specific purposes for which the proceeds of the loan 47299
or bond purchase shall be expended, the procedures as to the 47300
disbursements of loan or bond purchase proceeds, and the duties 47301
and obligations imposed upon the qualifying subdivision, local or 47302
regional transportation authority, or other person in regard to 47303
the construction, renovation, repair, refunding, or acquisition of 47304
the project; 47305

(C) The agreement of the qualifying subdivision, local or 47306
regional transportation authority, or other person to ~~raise the~~ 47307
~~funds of~~ provide sufficient credit or guarantee for repayment, 47308
through levy, pursuant to an election, contract, lease, fee 47309
charges, or otherwise; 47310

(D) The agreement of the qualifying subdivision, local or 47311
regional authority, or other person to provide the opinion of its 47312
counsel that the obligations of the qualifying subdivision, local 47313
or regional transportation authority, or other person comply with 47314
all applicable laws, rules, and regulations issued by the 47315
~~commission~~ department or other state, federal, or local bodies in 47316
regard to the construction, repair, renovation, funding, 47317
refunding, or acquisition of the project. 47318

Sec. ~~4981.131~~ 5507.131. (A) The power and authority provided 47319
by this chapter to qualifying subdivisions and local or regional 47320
transportation authorities to borrow for permitted loan purposes 47321
is in addition and supplemental to, not in derogation of, any 47322

other power or authority provided by law for the same or similar 47323
purposes, and this chapter provides to qualifying subdivisions or 47324
local or regional transportation authorities alternative, not 47325
exclusive, means of accomplishing those purposes. 47326

(B) Chapter 133. of the Revised Code shall not apply to 47327
issuance of bonds by the ~~Ohio rail development commission~~ 47328
department of transportation under this chapter or to the 47329
authorizing, obtaining, or incurring of any general obligation 47330
loan or special revenue loan or to its entering into any 47331
participation agreement or delivering any such other instrument to 47332
the ~~commission~~ department in connection therewith, by any 47333
qualifying subdivision or local or regional transportation 47334
authority, except to the extent, if any, that provisions of 47335
Chapter 133. of the Revised Code are expressly made applicable 47336
thereto by this chapter or by the bond proceedings applicable to 47337
the bonds from the proceeds of which such loan was made. 47338

(C) For purposes of division (A) of section 5705.41 of the 47339
Revised Code, the authorization by a qualifying subdivision or 47340
local or regional transportation authority of a loan from the 47341
~~commission~~ department pursuant to section ~~4981.12~~ 5507.12 of the 47342
Revised Code shall be deemed to be the authorization of a bond 47343
issue, and the purpose for which such loan was obtained shall be 47344
deemed to be the purpose for which such bonds were issued. For 47345
purposes of division (D) of section 5705.41 of the Revised Code, 47346
the proceeds to be derived from a loan authorized by a qualifying 47347
subdivision or local or regional transportation authority to be 47348
obtained pursuant to section ~~4981.12~~ 5507.12 of the Revised Code 47349
shall be deemed to be proceeds to be derived from authorized 47350
bonds. 47351

(D) Sections ~~4981.01~~ 5507.01 to ~~4981.26~~ 5507.26 of the 47352
Revised Code shall be liberally construed to effect the purposes 47353
described in section 1.11 of the Revised Code. 47354

~~Sec. 4981.14~~ 5507.14. (A) The Ohio rail development 47355
~~commission~~ department of transportation may exercise all powers 47356
necessary or appropriate to carry out ~~its corporate~~ the purposes 47357
of this chapter. 47358

(B) The ~~commission~~ department may do all of the following in 47359
connection with activities authorized by this chapter: 47360

~~(1) Adopt, and from time to time, ratify, amend, and repeal~~ 47361
~~bylaws necessary and proper for the regulation of its affairs and~~ 47362
~~the conduct of its business and rules to implement and make~~ 47363
~~effective its powers and duties;~~ 47364

~~(2) Adopt an official seal;~~ 47365

~~(3) Maintain a principal office in Columbus and, if~~ 47366
~~necessary, regional sub-offices at locations properly designated~~ 47367
~~or provided;~~ 47368

~~(4) Sue and be sued in its own name and plead and be~~ 47369
~~impleaded in its own name, particularly to enforce the obligations~~ 47370
~~and covenants made under sections 4981.13, 4981.14, and 4981.29 of~~ 47371
~~the Revised Code. Any actions against the commission shall be~~ 47372
~~brought in the court of common pleas in Franklin county, in which~~ 47373
~~the principal office of the commission shall be located.~~ 47374

~~(5) Undertake or cause to be undertaken the acquisition,~~ 47375
~~renovation, repair, refunding, operation, maintenance, or~~ 47376
~~construction of any rail service project;~~ 47377

~~(6)~~(2) Establish and operate a revolving loan fund for the 47378
purpose of making loans to qualifying subdivisions, local or 47379
regional transportation authorities, or other persons for the 47380
acquisition, renovation, repair, refunding, or construction of 47381
rail service projects by such qualifying subdivisions, local or 47382
regional transportation authorities, and private corporations or 47383
organizations, and the repayment thereof from project financing 47384

proceeds and revenues; purchase the obligations of counties and 47385
municipal corporations issued for the acquisition, renovation, 47386
repair, or construction of rail service projects by such 47387
qualifying subdivisions and local or regional transportation 47388
authorities; and adopt rules and procedures for making those loans 47389
or purchasing those obligations; 47390

~~(7)(3)~~ Issue bonds and notes and refunding obligations of the 47391
state, payable as provided in this chapter unless the bonds are 47392
refunded by refunding bonds, for the purpose of borrowing money to 47393
implement any power granted by ~~divisions (B)(5) and (6)~~ of this 47394
section for one or more rail service projects or parts thereof; 47395

~~(8)~~ Acquire by gift or purchase, hold, or dispose of real and 47396
personal property in the exercise of its powers and performance of 47397
its duties as set forth in this chapter; 47398

~~(9)~~ Make and enter into all contracts and agreements and 47399
execute all instruments necessary or incidental to the performance 47400
of its duties and the execution of its powers and to employ 47401
natural persons to act on behalf of the commission, and to 47402
establish the terms and conditions of such employment; 47403

~~(10)~~ Receive and accept from any federal agency or other 47404
person, subject to the approval of the governor, grants for or in 47405
aid of the construction, repair, renovation, operation, 47406
maintenance, or acquisition of rail service projects, and receive 47407
and accept aid or contributions from any source of money, 47408
property, labor, or other things of value, to be held, used, and 47409
applied only for the purposes for which the grants and 47410
contributions are made; 47411

~~(11)~~ Purchase property coverage and liability insurance for 47412
any rail service project and for any offices of the commission, 47413
insurance protecting the commission and its officers and employees 47414
against liability, if any, or damage to property or injury to or 47415

~~death of persons arising from its operations, and any other 47416
insurance the commission may agree to provide under any resolution 47417
authorizing the issuance of bonds in accordance with sections 47418
4981.11 to 4981.26 of the Revised Code, or in any trust agreement 47419
securing the same; 47420~~

~~(12) Establish or increase reserves from moneys received or 47421
to be received by the commission to secure or pay the principal of 47422
and interest on bonds, notes, or other obligations issued by the 47423
commission pursuant to this chapter or other law. Moneys, funds, 47424
and accounts of the commission, however, are subject only to audit 47425
by the auditor of state and all moneys, funds, and accounts shall 47426
be held in custody or deposited as directed by resolution of the 47427
commission and unless otherwise provided by law all moneys of the 47428
commission not pledged to the holders of bonds of the commission 47429
shall be appropriated by the general assembly. 47430~~

~~(13) Receive and disburse the proceeds of general obligation 47431
or other bonds of the state or agencies thereof as may be allowed 47432
by law pursuant to any resolution or act of the general assembly; 47433~~

~~(14)(4) To the extent permitted under its contracts with the 47434
holders of bonds or notes of the commission department, consent to 47435
modification of the rate of interest, time and payment of 47436
installment of principal or interest, security, or any other term 47437
of a bond, contract, or agreement of any kind to which the 47438
commission department is a party; 47439~~

~~(15)(5) Make grants to counties or municipal corporations, 47440
qualifying subdivisions, local or regional transportation 47441
authorities, or other persons for one or more rail service 47442
projects of parts thereof; 47443~~

~~(16)(6) Provide consultation services to any qualifying 47444
subdivision, local or regional transportation authority, or other 47445
person in connection with the acquisition, renovation, repair, or 47446~~

construction of any rail service project; 47447

~~(17)~~(7) Establish and amend the criteria and qualifications 47448
for the making of any loan to or the purchasing of any bond from 47449
any qualifying subdivision, local or regional transportation 47450
authority, or other person and the terms not inconsistent with 47451
this chapter of any loan or bond purchase agreement with any 47452
qualifying subdivision, local or regional transportation 47453
authority, or other person; 47454

~~(18)~~(8) Do all acts necessary and proper to carry out the 47455
powers expressly granted to the ~~commission~~ department in this 47456
chapter. 47457

(C) Any instrument by which real property is acquired 47458
pursuant to this section shall identify the agency of the state 47459
that has the use and benefit of the real property as specified in 47460
section 5301.012 of the Revised Code. 47461

Sec. ~~4981.15~~ 5507.15. (A) The ~~Ohio rail development~~ 47462
~~commission~~ department of transportation, from time to time, may 47463
issue bonds in such principal amounts as the ~~commission~~ department 47464
finds necessary to finance one or more rail service projects. 47465
Sections 9.98 to 9.983 of the Revised Code are hereby made 47466
applicable in their entirety to any bonds authorized to be issued 47467
under this chapter except as otherwise provided herein. 47468

(B) The ~~commission~~ department, from time to time, may issue 47469
renewal bonds, issue bonds to pay such obligations and, whenever 47470
it considers refunding expedient, refund any bonds by the issuance 47471
of bonds by the authority granted by this chapter. Except as may 47472
otherwise be expressly provided in this chapter or by the 47473
~~commission~~ department, every issue of its bonds or notes is an 47474
obligation of the ~~commission~~ department payable out of the 47475
revenues and reserves created for such purposes by the ~~commission~~ 47476
department, which are expressly pledged for such payment, without 47477

preference or priority of the first bonds issued, subject only to 47478
any agreements with the holders of particular bonds or notes 47479
pledging any particular revenues. Such pledge shall be valid and 47480
binding from the time the pledge is made and the revenues so 47481
pledged and thereafter received by the ~~commission~~ department 47482
immediately shall be subject to the lien of such pledge without 47483
any physical delivery thereof or further act and the lien of any 47484
such pledge shall be valid and binding as against all parties 47485
having claims of any kind, in tort, contract, or otherwise, 47486
against the ~~commission~~ department irrespective of whether such 47487
parties have notice thereof. 47488

(C) All such bonds shall have and are hereby declared to have 47489
all the qualities of negotiable instruments. The bonds shall ~~be~~ 47490
~~authorized by resolution of the commission, shall~~ bear such date 47491
and shall mature at such time, in case of any such note or any 47492
renewal thereof not exceeding five years from the date of issue of 47493
such original note, and in the case of any such bond not exceeding 47494
fifty years from the date of issue, ~~as such resolution may~~ 47495
~~provide.~~ The bonds and notes shall bear interest at such rate or 47496
rates, including variable rates, be in such denominations, be in 47497
such form, either coupon or registered, carry such registration 47498
privileges, be payable in such medium of payment, in such place, 47499
and be subject to such terms of redemption as otherwise set forth 47500
in this chapter as the ~~commission~~ department may authorize. The 47501
bonds of the ~~commission~~ department may be sold by the ~~commission~~ 47502
department at public or private sale, at or not less than the 47503
price the ~~commission~~ director of transportation determines. The 47504
bonds shall be ~~executed by a voting member of the commission,~~ 47505
~~selected by the commission and approved by the speaker of the~~ 47506
~~house of representatives and the president of the senate, who may~~ 47507
~~use a facsimile signature. The official seal of the commission, or~~ 47508
~~a facsimile, shall be affixed thereto or printed thereon and~~ 47509
~~attested, manually, or by facsimile signature, by the~~ 47510

~~secretary treasurer of the commission. Coupons, if any, attached 47511
thereto shall bear the signature or facsimile signature of the 47512
chairperson of the commission. In case any officer whose 47513
signature, or a facsimile of whose signature appears on any bonds, 47514
notes, or coupons ceases to be such officer before delivery of 47515
such bonds or notes, such signature or facsimile is nevertheless 47516
sufficient for all purposes the same as if the officer had 47517
remained in office until such delivery. In case the seal of the 47518
commission changes after a facsimile is imprinted on such bonds or 47519
notes, such facsimile continues to be sufficient for all purposes 47520
in the form prescribed by the treasurer of state. 47521~~

(D) Any ~~resolution~~ language authorizing any bonds or any 47522
issue thereof may contain provisions, subject to such agreements 47523
with bondholders or noteholders as may then exist, which 47524
provisions shall be a part of the contract with the holders 47525
thereof, as to pledging all or any part of the revenues of the 47526
~~commission~~ department to secure the payment of the bonds of any 47527
issue thereof; the issue and disposition of revenues of the 47528
~~commission~~ department; the setting aside of reserve funds, sinking 47529
funds, or replacement and improvement funds and the regulation and 47530
disposition thereof; the crediting of the proceeds of the sale of 47531
bonds to and among the funds referred to and provided for in the 47532
~~resolution~~ language authorizing the issuance of the bonds; 47533
providing for the pledge or use of the rail development fund 47534
created by section ~~4981.09~~ 5507.09 of the Revised Code; the use, 47535
lease, sale, or other disposition of any assets of the ~~commission~~ 47536
department; limitations on the purpose to which the proceeds of 47537
the sale of bonds may be applied; the agreement of the ~~commission~~ 47538
department to do all things necessary for the authorization, 47539
issuance, and sale of such bonds which may be issued in such 47540
amounts as may be necessary for the timely retirement of such 47541
bonds; limitation on the issuance of additional bonds which may be 47542
issued and secured; the refunding of outstanding bonds; the 47543

procedure, if any, by which the terms of any contract with 47544
bondholders or noteholders may be amended or abrogated; the amount 47545
of bonds the holders of which must consent may be given; 47546
limitations on the amount of moneys to be expended by the 47547
~~commission~~ department for operating, administrative, or other 47548
expenses of the ~~commission~~ department securing any bonds by a 47549
trust agreement; and any other matter, of like or different 47550
character, which in any way affects the security or protection of 47551
the bonds. 47552

(E) In connection with each such issuance of bonds, the 47553
~~commission~~ department shall establish in its name an improvement 47554
fund or funds in the name of the rail service project or projects 47555
for which the permitted loan or expenditure is to be made. The 47556
proceeds of each issue of bonds, except for any portion thereof 47557
required under the bond proceedings to be deposited in a bond 47558
service fund, bond service reserve fund, or other special fund 47559
established pursuant to the bond proceedings for such issue of 47560
bonds, shall be deposited in the designated fund, and together 47561
with any investment income thereof, shall be held in trust and 47562
applied solely to permitted bond purposes and in accordance with 47563
such bond proceedings. 47564

(F) The right of holders of bonds issued by the ~~commission~~ 47565
department to payment of debt service on such bonds shall be 47566
limited to the pledged receipts and special funds pledged thereto 47567
pursuant to the bond proceedings and any moneys available for such 47568
payment under any credit facility issued with respect to such 47569
bonds. The holders of such bonds shall have no right to have 47570
moneys raised by ad valorem taxation obligated or pledged, and 47571
moneys raised by ad valorem taxation shall not be obligated or 47572
pledged for the payment of debt service on bonds issued by the 47573
~~commission~~ department, except to the extent, if any, that the 47574
general assembly or legislative authority of qualifying 47575

subdivisions and local or regional transportation authorities that 47576
borrows moneys derived from the proceeds of such bonds pledge any 47577
moneys they raise by ad valorem taxation to the repayment of such 47578
borrowings and the moneys so raised and paid to the ~~commission~~ 47579
department are obligated or pledged to the payment of debt service 47580
on the bonds pursuant to the bond proceedings. 47581

(G) The bond proceedings adopted by the ~~commission~~ department 47582
authorizing the issuance of bonds shall provide for the general 47583
purpose thereof and shall specify, ~~or shall authorize one or more~~ 47584
~~officers of the board of directors to determine,~~ subject to 47585
limitations set forth in the bond proceedings: the aggregate 47586
principal amount of the bonds; the form and manner of execution 47587
and authentication of the bonds; the principal maturity or 47588
maturities; whether the bonds are to bear interest at a fixed rate 47589
or rates or under a floating rate interest structure; if a fixed 47590
rate or fixed rates of interest are to be borne by the bonds, the 47591
interest rate or rates: if the bonds are to bear interest under a 47592
floating rate interest structure, the manner in which the floating 47593
rate is to be determined for each interest-rate period, the length 47594
of each interest-rate period, and the extent to which and manner 47595
in which the interest-rate period may be changed from time to 47596
time; the put arrangement or arrangements, if any, to be available 47597
to holders of the bonds; and the paying agents, remarketing 47598
agents, indexing agents, or other agents, if any, to be engaged in 47599
connection with the issuance of the bonds. The bond proceedings, 47600
either expressly or by reference to other bond proceedings thereby 47601
approved or otherwise applicable, also shall specify: the pledged 47602
receipts and the special fund or funds to be pledged to secure the 47603
payment of the debt service on the bonds; whether the pledged 47604
receipts are pledged on a basis prior or subordinate to other 47605
expenses, claims, or payments and whether other bonds have been or 47606
may be issued by the ~~commission~~ department secured by the pledged 47607
receipts on a basis prior to or on a parity with the bonds; the 47608

credit facility or facilities, if any, to be obtained with respect 47609
to the bonds; and the rights and remedies that may be exercised by 47610
the holders of the bonds or by a trustee on their behalf upon the 47611
occurrence of an event constituting an event of default under the 47612
bond proceedings, which rights and remedies shall include, except 47613
to the extent restricted by the bond proceedings, any rights and 47614
remedies available under the laws of the state for the enforcement 47615
of the payments required under and any other agreements made in, 47616
the bond proceedings. The bond proceedings, either expressly or by 47617
reference to other bond proceedings thereby approved or otherwise 47618
applicable, also may provide for: the mandatory or optional 47619
redemption of the bonds prior to their stated maturity; 47620
limitations on the issuance of additional bonds by the ~~commission~~ 47621
department; the investment of moneys in the improvement fund and 47622
any special funds, without regard to Chapter 131. or 135. of the 47623
Revised Code, but subject to any provisions of Chapter ~~4981.~~ 5507. 47624
of the Revised Code, and the bond proceedings with respect 47625
thereto; a maximum rate of interest that bonds with a floating 47626
rate interest structure may bear, without regard to section 9.95 47627
of the Revised Code; any restrictions not inconsistent with this 47628
chapter on the amount and terms of and security for the repayment 47629
for loans made to qualifying subdivisions, local or regional 47630
transportation authorities, or other persons from the improvement 47631
fund; and any other term, condition, or provision of or with 47632
respect to the bonds which may be included in the bond 47633
proceedings. 47634

(H) The revenues and any special funds pledged to the payment 47635
of debt service on bonds pursuant to the bond proceedings for such 47636
bonds and thereafter received by the ~~commission~~ department or by 47637
an agent on behalf of the ~~commission~~ department are immediately 47638
subject to the lien of such pledge without any physical delivery 47639
thereof or further act. The lien of any such pledge is valid and 47640
binding against all parties having claims of any kind against the 47641

~~commission~~ department or against any person, qualifying 47642
subdivision, or local or regional transportation authority or 47643
municipal corporation that is an absolute obligor with respect to 47644
such bonds, irrespective of whether such parties have notice 47645
thereof, and shall create a perfected security interest for all 47646
purposes of Chapter 1309. of the Revised Code, without the 47647
necessity for separation or delivery of funds or for the filing or 47648
recording of the bond proceedings by which such pledge is created, 47649
or any certificate, statement, or other document with respect 47650
thereto; and the pledge of such pledged receipts and special funds 47651
is effective and the moneys therefrom and thereof may be applied 47652
to the purposes for which pledged without necessity for any act of 47653
appropriation. Every pledge, and every covenant and agreement made 47654
in the bond proceedings with respect thereto, may therein be 47655
extended to the benefit of the owners and holders of the bonds 47656
authorized to be issued under this section and to any trustee or 47657
paying agent for such owners and holders for further security of 47658
the payment of the debt service on such bonds. 47659

(I) Each duty of the ~~commission~~ department and of its 47660
~~members, directors, or officers~~ employees and each duty of any 47661
other governmental agency and its officials, members, or employees 47662
undertaken pursuant to the bond proceedings or in any 47663
participation agreement is hereby established as a duty of the 47664
~~commission~~ department or of such qualifying subdivision or local 47665
or regional transportation authority or governmental agency and of 47666
each such member, officer, official, or employee having authority 47667
to perform such duty, specifically enjoined by law resulting from 47668
an office, trust, or station within the meaning of section 2731.01 47669
of the Revised Code. ~~The persons who are at the time the members,~~ 47670
~~directors, officers, or employees of the commission are not liable~~ 47671
~~in their personal capacities on any bonds issued by the commission~~ 47672
~~or under any of the bond proceedings with respect thereto~~ Section 47673
9.86 of the Revised Code applies to all bond proceedings under 47674

this chapter. 47675

(J) Bonds issued under this section are lawful investments of 47676
banks, savings and loan associations, deposit guarantee 47677
associations, trust companies, trustees, fiduciaries, insurance 47678
companies, including domestic for life and domestic not for life, 47679
trustees or other officers having charge of sinking and bond 47680
retirement funds or other funds of the state and of political 47681
subdivisions and taxing districts of the state, the commissioners 47682
of the sinking fund of the state, the industrial commission, the 47683
state teachers retirement system, the public employees retirement 47684
system, the school employees retirement system, and the Ohio 47685
police and fire pension fund, notwithstanding any other provisions 47686
of the Revised Code or rules adopted by any state agency with 47687
respect to investments by them, and are also acceptable as 47688
security for the deposit of public moneys. For the purpose of 47689
causing bonds issued by the ~~commission~~ department to be eligible 47690
for investment of interim moneys of the state or any subdivision 47691
of the state under section 135.14 of the Revised Code, but solely 47692
for that purpose, bonds issued by the ~~commission~~ department shall 47693
be deemed to be bonds or other obligations of this state for 47694
purposes of division (B)(4) of section 135.14 of the Revised Code. 47695

(K) The bonds issued by the ~~commission~~ department, the 47696
transfer thereof, and the income therefrom, including any profit 47697
made on the sale thereof, shall at all times be free from taxation 47698
within the state. 47699

(L) Any bonds which recite that they are issued pursuant to 47700
this section, which comply on their face with such section, which 47701
are issued for one or more permitted bond purposes, and for which 47702
the ~~commission~~ department has been paid in full, shall in any 47703
action or proceeding involving their validity be conclusively 47704
deemed to have been issued, sold, executed, and delivered in 47705
conformity with law and shall be incontestable unless such action 47706

or proceeding is begun prior to the delivery of such bonds to the 47707
original purchaser or purchasers thereof. 47708

(M) In the event that the sum of all reserves pledged to the 47709
payment of such bonds shall be less than the minimum reserve 47710
requirements established ~~in any resolution or resolutions~~ 47711
~~authorizing for~~ the issuance of such bonds, the ~~chairperson~~ 47712
director of the ~~commission~~ transportation shall certify, on or 47713
before the first day of December of each year, the amount of such 47714
deficiency to the governor for inclusion, if the governor shall so 47715
elect, of the amount of such deficiency in the budget to be 47716
submitted to the next session of the general assembly for 47717
appropriation to the ~~commission~~ department to be pledged for 47718
payment of such bonds or notes. The general assembly shall not be 47719
required to make any appropriations so requested, and the amount 47720
of such deficiencies do not constitute a debt or liability of the 47721
state. 47722

(N) All property of the ~~commission~~ department is exempt from 47723
levy and sale by virtue of an execution and no execution or other 47724
judicial process may issue against the property. A judgment 47725
against the ~~commission~~ department may not be a charge or lien upon 47726
its property. However, nothing in this section applies to or 47727
limits the rights of the holder of bonds or notes to pursue a 47728
remedy for the enforcement of a pledge or lien given by the bank 47729
on its revenues or other money. 47730

(O) No action to contest the validity of any bonds of the 47731
~~commission~~ department to be sold at public sale may be brought 47732
after the fifteenth day following the first publication of notice 47733
of the sale of the bonds. No action to contest the validity of any 47734
bond sale under this chapter may be brought after the fifth day 47735
following the bond sale. 47736

(P) If bonds are sold at private sale, the ~~commission~~ 47737
department may publish notice of the execution of the contract of 47738

sale of the bonds one time in a newspaper published and of general 47739
circulation in the city of Columbus. If notice is published as 47740
permitted in this division, no action to contest the validity of 47741
such bonds or notes sold at private sale may be brought after the 47742
fifteenth day following the publication of notice of the execution 47743
of the contract of sale pertaining to the bonds. 47744

(Q) If an action challenging the bonds of the ~~commission~~ 47745
department is not brought within the time prescribed by division 47746
(O) or (P) of this section, whichever is applicable, all bonds ~~of~~ 47747
~~the commission~~ shall be conclusively presumed to be fully 47748
authorized and issued under the laws of the state, and a person or 47749
a qualified entity is estopped from questioning their 47750
authorization, sale, issuance, execution, or delivery by the 47751
~~commission~~ department. 47752

(R) Insofar as the provisions of this section are 47753
inconsistent with the provisions of any other law, general, 47754
special, or local, the provisions of this chapter shall be 47755
controlling. 47756

Sec. ~~4981.16~~ 5507.16. The ~~Ohio rail development commission~~ 47757
department of transportation may make the following determinations 47758
in connection with any issuance of its bonds under this chapter: 47759

(A) The number, location, and other characteristics of 47760
projects, including to the extent reasonably possible, assurance 47761
that the projects to be financed by bonds will create or preserve 47762
jobs and employment opportunities or improve the economic welfare 47763
of the people of the state; 47764

(B) Eligibility requirements, including requirements for 47765
credit worthiness, for projects for which loans are made from 47766
proceeds of the bonds. In determining eligibility requirements the 47767
issuer shall take into consideration all of the following factors: 47768

(1) The length of time any borrower has been engaged in rail service;	47769 47770
(2) The net income or net worth of any borrower;	47771
(3) The availability or feasibility of alternative financing methods for any borrower;	47772 47773
(C) The type and amount of collateral, security, or credit enhancement to be provided to assure repayment of loans or of bonds;	47774 47775 47776
(D) The amounts and types of insurance coverage required on projects and loans;	47777 47778
(E) Any other matters relating to the exercise of the powers or duties of the issuer under sections 4981.11 <u>5507.11</u> to 4981.26 <u>5507.26</u> of the Revised Code.	47779 47780 47781
Sec. 4981.17 <u>5507.17</u>. (A) In the discretion of the Ohio rail development commission <u>department of transportation</u> , the bonds <u>issued under this chapter</u> may be secured by a trust agreement or indenture of mortgage between the issuer and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without this state but authorized to exercise trust powers within this state.	47782 47783 47784 47785 47786 47787 47788
(B) Any such trust agreement or indenture of mortgage may contain the resolution or ordinance <u>language</u> authorizing the issuance of the bonds and other provisions that are customary or appropriate in an agreement or indenture of such type, including, but not limited to:	47789 47790 47791 47792 47793
(1) A pledge of the rentals, revenues, and other income, charges, and moneys out of which the principal of and interest on the bonds shall be payable and a mortgage of all or any part of the pledged facilities, including any enlargements of and additions to such pledged facilities thereafter made;	47794 47795 47796 47797 47798

(2) Maintenance of each pledge, trust agreement, and indenture of mortgage made for the security of any of the bonds until the issuer has fully paid the principal of and interest on the bonds, or provision therefor has been made, for the security of which the pledge has been made and the trust agreement or indenture of mortgage has been given;

(3) In the event of default in any payments required to be made by the bond proceedings or any other agreement of the issuer made as a part of the contract under which the bonds were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver in equity, or if a mortgage has been given, the foreclosure of such mortgage or any combination of the foregoing;

(4) The rights and remedies of the bondholders and of the trustee and provisions for protecting and enforcing them, including limitations on rights of individual bondholders;

(5) Such other provisions as the trustee, the original purchaser of the bonds, and the issuer agree upon.

Sec. ~~4981.18~~ 5507.18. (A) Any holder of bonds issued pursuant to sections ~~4981.11~~ 5507.11 to ~~4981.26~~ 5507.26 of the Revised Code or a trustee under a trust agreement or indenture of mortgage entered into pursuant to section ~~4981.17~~ 5507.17 of the Revised Code, except to the extent that their rights are restricted by the bond proceedings or by the terms of the bonds, may by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by the bond proceedings. Such rights include the right to compel the performance of all duties of the ~~Ohio rail development commission~~ department of transportation required by sections ~~4981.11~~ 5507.11 to ~~4981.26~~ 5507.26 of the Revised Code or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to

the payment of any principal of and interest on any bond or in the 47830
performance of any covenant or agreement on the part of the issuer 47831
in the resolution, ordinance, trust agreement, or indenture, to 47832
apply to a court having jurisdiction of the cause to appoint a 47833
receiver to administer and operate the pledged facilities, the 47834
rentals, revenues, and other income, charges, and moneys of which 47835
are pledged to the payment of principal of and interest on such 47836
bonds or which are the subject of the covenant or agreement, with 47837
full power to pay, and to provide for payment of, principal of and 47838
interest on such bonds, and with such powers, subject to the 47839
direction of the court, as are accorded receivers in general 47840
equity cases, excluding any power to pledge additional rentals, 47841
revenues, or other income, charges, or moneys of the issuer, 47842
including those derived from taxation, to the payment of such 47843
principal and interest; and to foreclose the mortgage on the 47844
pledged facilities in the same manner as for real estate of 47845
private corporations. 47846

(B) No law heretofore or hereafter enacted providing for a 47847
moratorium, postponement, or restraint upon the rights or remedies 47848
of a mortgagee or secured party to enforce a security interest, 47849
whether by foreclosure, collection or taking possession, judicial 47850
or other sale or disposition, or by any other means, shall apply 47851
to a security interest in all or any part of pledged facilities or 47852
in any way restrict, preclude, or otherwise impair the rights or 47853
remedies of the holders of bonds issued under sections ~~4981.11~~ 47854
5507.11 to ~~4981.26~~ 5507.26 of the Revised Code or of any insurer, 47855
guarantor, or provider of a letter of credit or other credit 47856
facility or security enhancement arrangement pertaining to loans 47857
made or bonds issued under sections ~~4981.11~~ 5507.11 to ~~4981.26~~ 47858
5507.26 of the Revised Code. The provisions of this division may 47859
be included as a covenant in any agreement with the holders of 47860
bonds or any insurer, guarantor, or provider of a letter of credit 47861
or other credit facility or security enhancement arrangement 47862

pertaining to loans made or bonds issued under sections ~~4981.11~~ 47863
5507.11 to ~~4981.26~~ 5507.26 of the Revised Code. 47864

Sec. ~~4981.19~~ 5507.19. All bonds issued under sections ~~4981.11~~ 47865
5507.11 to ~~4981.26~~ 5507.26 of the Revised Code are lawful 47866
investments of banks, societies for savings, savings and loan 47867
associations, deposit guarantee associations, trust companies, 47868
trustees, fiduciaries, insurance companies, including domestic for 47869
life and domestic not for life, trustees or other officers having 47870
charge of sinking and bond retirement or other special funds of 47871
political subdivisions and taxing districts of this state, the 47872
commissioners of the sinking fund of the state, the administrator 47873
of workers' compensation, the state teachers retirement system, 47874
the public employees retirement system, the school employees 47875
retirement system, and the Ohio police and fire pension fund, 47876
notwithstanding any other provision of the Revised Code or rules 47877
adopted pursuant thereto by any governmental agency of the state 47878
with respect to investments by them, and are acceptable as 47879
security for the deposit of public moneys. 47880

Sec. ~~4981.20~~ 5507.20. (A) Any real or personal property, or 47881
both, of the ~~Ohio rail development commission~~ department of 47882
transportation that is acquired, constructed, reconstructed, 47883
enlarged, improved, furnished, or equipped, or any combination 47884
thereof, and leased or subleased under authority of sections 47885
~~4981.11~~ 5507.11 to ~~4981.26~~ 5507.26 of the Revised Code shall be 47886
subject to ad valorem, sales, use, and franchise taxes and to 47887
zoning, planning, and building regulations and fees, to the same 47888
extent and in the same manner as if the lessee-user or 47889
sublessee-user thereof, rather than the issuer, had acquired, 47890
constructed, reconstructed, enlarged, improved, furnished, or 47891
equipped, or any combination thereof, such real or personal 47892
property, and title thereto was in the name of such lessee-user or 47893

sublessee-user. 47894

The transfer of tangible personal property by lease or 47895
sublease under authority of sections ~~4981.11~~ 5507.11 to ~~4981.26~~ 47896
5507.26 of the Revised Code is not a sale as used in Chapter 5739. 47897
of the Revised Code. The exemptions provided in divisions (B)(1) 47898
and ~~(14)~~(12) of section 5739.02 of the Revised Code shall not be 47899
applicable to purchases for a project under sections ~~4981.11~~ 47900
5507.11 to ~~4981.26~~ 5507.26 of the Revised Code. 47901

The issuer shall be exempt from all taxes on its real or 47902
personal property, or both, which has been acquired, constructed, 47903
reconstructed, enlarged, improved, furnished, or equipped, or any 47904
combination thereof, under sections ~~4981.11~~ 5507.11 to ~~4981.26~~ 47905
5507.26 of the Revised Code so long as such property is used by 47906
the issuer for purposes which would otherwise exempt such 47907
property; has ceased to be used by a former lessee-user or 47908
sublessee-user and is not occupied or used; or has been acquired 47909
by the issuer but development has not yet commenced. The exemption 47910
shall be effective as of the date the exempt use begins. All taxes 47911
on the exempt real or personal property for the year should be 47912
prorated and the taxes for the exempt portion of the year shall be 47913
remitted by the county auditor. 47914

(B) Bonds issued under sections ~~4981.11~~ 5507.11 to ~~4981.26~~ 47915
5507.26 of the Revised Code, the transfer thereof, and the 47916
interest and other income from the bonds, including any profit 47917
made on the sale thereof, are free from taxation within the state. 47918

Sec. ~~4981.21~~ 5507.21. When a special assessment is made on 47919
real property owned by the ~~Ohio rail development commission~~ 47920
department of transportation and leased under authority of 47921
sections ~~4981.11~~ 5507.11 to ~~4981.26~~ 5507.26 of the Revised Code, 47922
the installments of the assessment shall be paid by the lessee of 47923
such real property so long as ~~such~~ the property is leased and any 47924

installment ~~thereof~~ remaining unpaid at the termination of any 47925
~~such~~ lease shall thereafter be paid by the issuer so long as ~~such~~ 47926
the property is owned by it. 47927

Sec. ~~4981.22~~ 5507.22. The ~~Ohio rail development commission~~ 47928
department of transportation may issue refunding bonds to refund 47929
any bonds it previously issued under sections ~~4981.11~~ 5507.11 to 47930
~~4981.26~~ 5507.26 of the Revised Code, for any of the following 47931
purposes: 47932

(A) Refunding bonds ~~which~~ that have matured or are about to 47933
mature when the rentals, revenues, and other income, charges, and 47934
moneys pledged for the payment of such bonds are insufficient to 47935
pay bonds ~~which~~ that have matured or are about to mature or to 47936
make payments to other funds required by the bond proceedings; 47937

(B) Refunding any bonds as an incident to providing funds for 47938
reconstructing, enlarging, improving, or providing additional 47939
furnishings or equipment for the pledged facilities as to bonds 47940
originally issued under sections ~~4981.11~~ 5507.11 to ~~4981.26~~ 47941
5507.26 of the Revised Code; 47942

(C) Refunding all of the outstanding bonds of any issue, both 47943
matured and unmatured, when the rentals, revenues, or other 47944
income, charges, or moneys pledged for the payment of such bonds 47945
are insufficient to pay bonds ~~which~~ that have matured or are about 47946
to mature or to make payments to other funds required by the bond 47947
proceedings, if such outstanding bonds can be retired by call, at 47948
maturity, or with the consent of the holders thereof, whether from 47949
the proceeds of the sale of the refunding bonds or by exchange for 47950
the refunding bonds, provided that the principal amount of 47951
refunding bonds shall not exceed in amount the aggregate of the 47952
par value of the bonds to be retired, any redemption premium, past 47953
due and future interest to the date of maturity or proposed 47954
redemption that cannot otherwise be paid, and funds, if any, to 47955

reconstruct, enlarge, improve, furnish, or equip, or any 47956
combination thereof, the pledged facilities as to bonds originally 47957
issued under sections ~~4981.11~~ 5507.11 to ~~4981.26~~ 5507.26 of the 47958
Revised Code; 47959

(D) Refunding any bonds of the issuer previously issued when 47960
the refunding bonds will bear interest at a lower rate than the 47961
bonds to be refunded, or when the interest cost of the refunding 47962
bonds computed to absolute maturity will be less than the interest 47963
cost of the bonds to be refunded, or when the average life of the 47964
refunding bonds will be greater than the remaining average life of 47965
the bonds to be refunded. 47966

Refunding bonds issued pursuant to this section shall mature 47967
not later than thirty years from date of issue. Except as provided 47968
in this section, the terms of the issuance and sale of refunding 47969
bonds shall be as provided in sections ~~4981.11~~ 5507.11 to ~~4981.26~~ 47970
5507.26 of the Revised Code for an original issue of bonds. 47971

Sec. ~~4981.23~~ 5507.23. No bonds shall be issued under sections 47972
~~4981.11~~ 5507.11 to ~~4981.26~~ 5507.26 of the Revised Code unless the 47973
~~resolution language~~ authorizing such issuance of bonds specifies 47974
that all wages paid to laborers and mechanics employed on such 47975
projects for which the bonds are issued shall be paid at the 47976
prevailing rates of wages of laborers and mechanics for the class 47977
of work called for by such project, which wages shall be 47978
determined in accordance with the requirements of Chapter 4115. of 47979
the Revised Code for determination of prevailing wage rates, 47980
provided that the requirements of this section do not apply where 47981
the federal government or any of its agencies furnished by loan or 47982
grant all or any part of the funds used in connection with such 47983
project and prescribes predetermined minimum wages to be paid to 47984
such laborers and mechanics; and provided further that should a 47985
nonpublic user beneficiary of the project undertake, as part of 47986

the project, construction to be performed by its regular 47987
bargaining unit employees who are covered under a collective 47988
bargaining agreement ~~which~~ that was in existence prior to the date 47989
of the commitment instrument undertaking to issue bonds then, in 47990
that event, the rate of pay provided under the collective 47991
bargaining agreement may be paid to such employees. 47992

Sec. ~~4981.25~~ 5507.25. In accordance with Section 13 of 47993
Article VIII, Ohio Constitution, the state, acting through the 47994
~~Ohio rail development commission~~ department of transportation, for 47995
the purpose of implementing rail service, may ~~by resolution~~ 47996
designate a corporation organized under Chapter 1702. or 1724. of 47997
the Revised Code as its agency to acquire, construct, reconstruct, 47998
enlarge, improve, furnish, or equip and to sell, lease, exchange, 47999
or otherwise dispose of property and facilities within the state 48000
for industry, commerce, distribution, and research; may approve 48001
such corporation and obligations of the corporation issued by it 48002
for one or more such purposes; and may have a beneficial interest 48003
in such corporation including the right to the property financed 48004
by such obligations on the retirement of such obligations, or by 48005
acquiring such property for endowment or similar uses or benefits 48006
or for ultimate direct use by it, subject to any lease or mortgage 48007
securing such obligations. 48008

Sec. ~~4981.26~~ 5507.26. (A) A project of the ~~Ohio rail~~ 48009
~~development commission~~ department of transportation authorized by 48010
this chapter shall not be subject to the requirements relating to 48011
public buildings, structures, grounds, works, or improvements 48012
imposed by section 125.81, 713.02, or 713.25 of the Revised Code 48013
or any other similar requirements that may be lawfully waived by 48014
this section. 48015

(B) A project of the ~~commission~~ department authorized by this 48016
chapter shall be constructed, reconstructed, enlarged, improved, 48017

furnished, or equipped and shall be leased, sold, or otherwise 48018
disposed of in the manner determined by the issuer in its sole 48019
discretion and any requirement of competitive bidding or other 48020
restriction, which may be lawfully waived by this section, imposed 48021
on the procedure for award of contracts for such purpose or the 48022
lease, sale, or other disposition of property of the issuer is not 48023
applicable to any action taken under sections ~~4981.11~~ 5507.11 to 48024
~~4981.26~~ 5507.26 of the Revised Code. 48025

Sec. ~~4981.28~~ 5507.28. (A) The general assembly hereby finds 48026
and declares that it is in the public interest for private 48027
corporations or organizations to participate in the providing of 48028
rail service through the financing, design, construction, 48029
reconstruction, operation, and maintenance by private persons of 48030
all or part of a rail system, whether as system owners, lessees 48031
from the ~~Ohio rail development commission~~ department of 48032
transportation, or agents for the ~~commission~~ department. 48033

(B) To the extent that any provisions of sections ~~4981.28~~ 48034
5507.28 to ~~4981.34~~ 5507.34 of the Revised Code conflict with any 48035
state or local statute, regulation, or ordinance, the provisions 48036
of sections ~~4981.28~~ 5507.28 to ~~4981.34~~ 5507.34 of the Revised Code 48037
are controlling. 48038

Sec. ~~4981.29~~ 5507.29. (A) In addition to the powers contained 48039
in section ~~4981.14~~ 5507.14 of the Revised Code, the ~~Ohio rail~~ 48040
~~development commission~~ department of transportation may do all of 48041
the following: 48042

(1) Notwithstanding division (A) of section ~~4981.04~~ 5507.04 48043
of the Revised Code, adopt a plan for private participation in the 48044
financing, design, construction, and operation of all or part of a 48045
rail system; 48046

(2) Grant franchises for terms of up to fifty years and enter 48047

into franchise agreements with private corporations or 48048
organizations in connection therewith. A franchise may be awarded 48049
for the entire rail system or for a designated portion of the 48050
system, such as a corridor. 48051

(3) Use, close, relocate, or alter the grade of existing 48052
streets or highways or facilities of public utilities, and 48053
otherwise ensure compatibility of operation of public facilities 48054
with a franchise, whether in connection with the exercise of the 48055
~~commission's~~ department's power to appropriate property or 48056
otherwise; 48057

(4) Consult with and receive services from other state 48058
agencies and political subdivisions in connection with the 48059
planning, financing, construction, and operation of the rail 48060
system; 48061

(5) In accordance with Chapter 163. of the Revised Code, and 48062
subject to the approval of the director of transportation, 48063
appropriate at a franchisee's expense real property that it may 48064
transfer to the franchisee, if the franchisee previously has made 48065
reasonable efforts to obtain the property in question through 48066
good-faith negotiations; 48067

(6) Make proceeds of bonds issued pursuant to section ~~4981.15~~ 48068
5507.15 of the Revised Code available for financing of all or part 48069
of a privately operated rail system, and serve as the issuer of 48070
bonds to fund loans it may make to private corporations and 48071
organizations under sections ~~4981.01~~ 5507.01 to ~~4981.26~~ 5507.26 of 48072
the Revised Code; 48073

(7) Preserve and defend the confidentiality of trade secrets 48074
and proprietary information received from private corporations or 48075
organizations; 48076

~~(8) Enter into any indemnification agreements that are 48077
necessary to reimburse a franchisee for any injuries or losses 48078~~

~~suffered by any person and for which the franchisee is liable and 48079
must pay money damages, if the injuries or losses are of such a 48080
nature that, if the commission were the responsible party instead 48081
of the franchisee, the commission would not be liable for the 48082
injuries or losses due to any immunity it enjoys under the laws of 48083
this state. 48084~~

(B) The ~~commission~~ department shall not regulate the rates or 48085
fares charged by a franchisee or the return on investment received 48086
by a franchisee, provided the rates are not discriminatory and 48087
overall return is not unreasonable. The ~~commission~~ department 48088
shall not regulate operations of a franchisee so long as the 48089
franchisee operates in accordance with all applicable safety 48090
standards. 48091

Sec. ~~4981.30~~ 5507.30. (A) The ~~Ohio rail development 48092
commission department of transportation, in accordance with 48093
Chapter 119. of the Revised Code, shall adopt, and may amend and 48094
rescind, rules governing the process whereby a private corporation 48095
or organization may apply to the ~~commission~~ department for a 48096
franchise for all or part of a rail system. The rules also shall 48097
establish the financial and technical criteria upon which a 48098
franchise is awarded. The criteria may include all of the 48099
following: 48100~~

(1) The qualifications of each applicant, including the 48101
familiarity of the applicant with the transportation needs and 48102
resources of the state and the applicant's prior involvement and 48103
experience with respect to the development of rail service in this 48104
state; 48105

(2) The level of transport services offered; 48106

(3) The technology proposed; 48107

(4) The timetable for construction; 48108

(5) The construction, operation, and management plans;	48109
(6) The financial plan and the applicant's financial ability to provide reliable service;	48110 48111
(7) Whether the proposed rail system will meet all applicable state and federal safety requirements;	48112 48113
(8) Any legislative changes that may be necessary in order to implement the applicant's proposal;	48114 48115
(9) Any plans and studies prepared for the commission <u>department</u> ;	48116 48117
(10) The projected ability of each applicant's proposed revenue sources to meet projected capital and operating funding requirements.	48118 48119 48120
(B) The commission <u>department</u> may solicit letters of intent from private corporations or organizations interested in applying for a franchise, and may require that a nonrefundable fee be submitted with the letter of intent. Any such fee may be applied against costs the commission <u>department</u> incurs in evaluating applications and for subsequent administration of a franchise.	48121 48122 48123 48124 48125 48126
(C) The commission <u>department</u> may request proposals to be delivered for a franchise to construct, operate, and maintain the rail system or a portion thereof.	48127 48128 48129
(D) All applications for a franchise shall address the items contained in divisions (A)(1) to (11) of section 4981.04 <u>5507.04</u> of the Revised Code.	48130 48131 48132
(E) The commission <u>department</u> shall notify all prospective bidders for a franchise that any private corporation or organization that is awarded a franchise with respect to the 3-C corridor shall be obligated to reimburse the commission <u>department</u> for amounts payable by the commission <u>department</u> , up to a maximum of one million five hundred thousand dollars, arising out of	48133 48134 48135 48136 48137 48138

commitments of the ~~commission~~ department in connection with the 48139
preparation of the plan under section ~~4981.04~~ 5507.04 of the 48140
Revised Code, and out of other pre-existing contractual 48141
arrangements of the ~~commission~~ department with respect to the 3-C 48142
corridor. 48143

(F) The ~~commission~~ department may award a franchise for the 48144
rail system or a portion of the system to the applicant the 48145
~~commission~~ department determines is best qualified, in accordance 48146
with standards for evaluation of applicants established by rule 48147
and previously announced. 48148

Sec. ~~4981.31~~ 5507.31. (A) The award by the ~~Ohio rail~~ 48149
~~development commission~~ department of transportation of a franchise 48150
for all or part of a rail system shall be the sole license 48151
required for a franchisee to exercise all specified franchise 48152
powers and enjoy all specified franchise rights. The franchise 48153
shall be for a term of not less than thirty-five, but not more 48154
than fifty years from the date of commencement of actual service 48155
operations. ~~With the approval of the general assembly, the~~ 48156
~~commission~~ The department may extend a franchise beyond the time 48157
period specified in the original franchise award, on terms 48158
mutually agreeable to the franchisee and the ~~commission~~ 48159
department. If the ~~commission~~ department does not grant an 48160
extension, any portion of the rail system owned by the franchisee 48161
shall revert to the state upon expiration of the franchise. 48162

(B) In the absence of a material default by a franchisee 48163
under the franchise agreement, any termination by the ~~commission~~ 48164
department of a franchise prior to the expiration of its stated 48165
terms shall be deemed to be either an impairment of contract by 48166
the state or the equivalent of the commencement of an 48167
appropriation action by the state, as the franchisee may elect, 48168
and shall entitle the franchisee to full compensation for its 48169

loss, including reimbursement of all costs incurred in the 48170
development of the franchise. Any terms of the franchise agreement 48171
designed to protect the reasonable expectations of persons 48172
providing financing for the portion of the system comprising the 48173
franchise shall not be affected by any proposed franchise 48174
termination, and any termination based upon an alleged material 48175
default in performance by the franchisee is subject to the hearing 48176
and appeal provisions of Chapter 119. of the Revised Code. 48177

(C) The franchise agreement may authorize the franchisee to 48178
plan, design, finance, construct, operate, and maintain its 48179
designated portion of the rail system and any ancillary system 48180
facilities. 48181

(D) The franchise agreement shall require the franchisee to 48182
construct, operate, and maintain the rail system in accordance 48183
with the franchise agreement. All minimum technical standards for 48184
the design, construction, and operation of the portion of the 48185
system comprising the franchise shall be included in the franchise 48186
agreement or incorporated by reference. The conditions of the 48187
franchise agreement relating to the actual operation of the 48188
trains, including train speed, capacity, construction and 48189
maintenance standards, environmental enhancement and protection, 48190
safety, and noise levels, supersede any conflicting rule, 48191
ordinance, resolution, standard, or charter provision of any 48192
agency or political subdivision of the state. 48193

(E) Provision may be included in the franchise agreement for 48194
a development and construction schedule, subject to extension for 48195
events beyond the control of the franchisee and changes in 48196
applicable state and federal law. 48197

(F) The franchise agreement shall obligate the ~~commission~~ 48198
department, upon request of the franchisee, to assist in obtaining 48199
permits and licenses necessary for the construction and operation 48200
of the rail system and ancillary facilities. 48201

(G) ~~If a franchisee develops and either transfers its portion of the rail system to the commission and then leases that portion from the commission, or leases its portion to the commission and continues to operate that portion of the rail system, the state shall indemnify the franchisee against claims that, if made against the commission or the state, would be subject to a defense of sovereign immunity.~~ 48202
48203
48204
48205
48206
48207
48208

~~(H)~~ In the franchise agreement, the ~~commission~~ department may furnish the franchisee with reasonable assurances that the state will not take any action that would have the effect of depriving the franchisee of the anticipated economic benefits of franchise operation, including the award of franchises subsequent to the award of the 3-C corridor franchise which have such effect, and that the ~~commission~~ department will take such reasonable actions to dissuade other agencies of the state from taking actions that might have an adverse economic or regulatory impact on the franchisee. 48209
48210
48211
48212
48213
48214
48215
48216
48217
48218

~~(I)~~(H) If more than one franchise is awarded, the franchisees shall bear all costs necessary for the interconnection of their respective franchises, which costs shall be allocated equitably by the ~~commission~~ department. 48219
48220
48221
48222

~~(J)~~(I) After a franchise is awarded, the terms under which it is awarded may be modified only by written agreement of the parties, after observation of notice and comment procedures initially agreed to by the ~~commission~~ department and the franchisee. 48223
48224
48225
48226
48227

~~(K)~~(J) The ~~commission~~ department shall cooperate with the environmental protection agency in the franchise procurement review and award process. In consultation with the agency, the ~~commission~~ department shall adopt or amend reasonable procedural rules in order to simplify and expedite the process by which the 48228
48229
48230
48231
48232

franchisee applies for and obtains required state permits. 48233

~~(L)~~(K) The ~~commission~~ department shall assist franchisees in 48234
meeting environmental requirements, including, if requested by a 48235
franchisee, serving as the lead agency in connection with 48236
environmental impact analysis requirements. 48237

Sec. ~~4981.32~~ 5507.32. (A) A franchise agreement shall 48238
authorize the franchisee to do all of the following: 48239

(1) Acquire and dispose of real and personal property and 48240
request the ~~Ohio rail development commission~~ department of 48241
transportation to appropriate real property for sale to the 48242
franchisee in accordance with division (A)(5) of section ~~4981.29~~ 48243
5507.29 of the Revised Code; 48244

(2) Plan, design, finance, construct, reconstruct, improve, 48245
operate, and maintain its portion of the rail system and any 48246
ancillary system facilities; 48247

(3) Set and charge rates and fares for the use of its portion 48248
of the rail system, and retain all revenues in excess of debt 48249
service and operating expenses up to an agreed return on 48250
investment; 48251

(4) Subject to applicable permit requirements, construct and 48252
operate the rail system over or under canals, navigable 48253
watercourses, and existing transportation and public utility 48254
rights-of-way; 48255

(5) Classify users according to reasonable categories for the 48256
assessment of fares, including peak and off-peak time periods; 48257

(6) Make and enforce reasonable regulations regarding usage 48258
and safety of that portion of the rail system comprising its 48259
franchise; 48260

(7) Engage in any other business in addition to that of 48261
operator of its portion of the rail system, including the purchase 48262

and sale of real estate and ownership and operation of ancillary system facilities; 48263
48264

(8) Establish and fund accounts, including reasonable reserves for contingencies, maintenance, and replacement, in order to ensure the availability of funds to meet future obligations of the franchisee; 48265
48266
48267
48268

(9) Take all other actions it determines necessary and appropriate in the operation of the franchise, so long as those actions comply with the franchise agreement and with applicable state and federal statutes, rules, and regulations. 48269
48270
48271
48272

(B) The franchisee shall do all of the following: 48273

(1) Use best efforts to arrange financing for the construction and operation of that portion of the rail system that comprises its franchise, and pledge assets and revenue as may be necessary to secure repayment of obligations; 48274
48275
48276
48277

(2) Maintain and file with the ~~commission~~ department a schedule of rates and fares, and file and maintain a statement that those rates and fares apply uniformly to all users of the rail system within reasonable categories; 48278
48279
48280
48281

(3) Construct, maintain, and insure the rail system in accordance with standards agreed with the ~~commission~~ department, and permit access for inspection by the ~~commission~~ department. Construction may be performed in stages pursuant to a schedule or program approved by the ~~commission~~ department. 48282
48283
48284
48285
48286

(4) Enlarge or expand its portion of the rail system from time to time, as reflected in initial plans for the franchise and as appropriate to meet market requirements; 48287
48288
48289

(5) Operate the rail system in accordance with applicable legal requirements and any additional reasonable operating and safety standards the ~~commission~~ department approves, or as 48290
48291
48292

otherwise may be required by applicable state or federal requirements; 48293
48294

(6) Contract with state, county, or municipal law enforcement agencies, or enter into other arrangements acceptable to the ~~commission~~ department, to provide law enforcement on and around the franchisee's portion of the rail system. 48295
48296
48297
48298

(C) Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code. 48299
48300
48301
48302

Sec. ~~4981.33~~ 5507.33. (A) The ~~Ohio rail development~~ commission department of transportation shall review all plans and specifications of a franchisee for its portion of a rail system to ensure that the plans and specifications conform to ~~commission~~ department standards, and shall inspect and approve the construction of all portions of the rail system. ~~The commission shall assume responsibility for and indemnify any franchisee for third party claims arising out of franchisee design and construction activities performed without fault that have been reviewed and approved by the commission.~~ 48303
48304
48305
48306
48307
48308
48309
48310
48311
48312

(B) The ~~commission~~ department shall monitor maintenance practices of a franchisee or its operator to secure and maintain safety and efficiency in the operation of those portions of the rail system operated by the franchisee. 48313
48314
48315
48316

(C) All rules adopted by the ~~commission~~ department affecting the rail system or franchises shall be adopted in accordance with Chapter 119. of the Revised Code. 48317
48318
48319

(D) The ~~commission~~ department shall not regulate rates and fares a franchisee charges for its portion of the rail system. 48320
48321

(E) The ~~commission~~ department may require a franchisee to 48322

furnish to the ~~commission~~ department data sufficient to enable it 48323
to verify the franchisee's compliance with all terms of its 48324
franchise agreement. 48325

(F) Except for rules adopted by the ~~commission~~ department or 48326
the franchisee pursuant to sections ~~4981.28~~ 5507.28 to ~~4981.34~~ 48327
5507.34 of the Revised Code, the laws of this state relating to 48328
rail carriers apply to all portions of the rail system, and the 48329
powers of arrest of law enforcement officers on and around any 48330
portion of the rail system are the same there as elsewhere in the 48331
state. 48332

Sec. ~~4981.34~~ 5507.34. (A) On behalf of a franchisee and 48333
pursuant to section ~~4981.15~~ 5507.15 of the Revised Code, the ~~Ohio~~ 48334
~~rail development commission~~ department of transportation may issue 48335
bonds for loans to finance development and construction of a 48336
franchisee's portion of a rail system. Any bonds issued pursuant 48337
to this section do not, and shall state that they do not, 48338
represent or constitute a debt or pledge of the faith and credit 48339
of the state, nor do such bonds grant to the bondholders or 48340
noteholders any right to have the general assembly levy any taxes 48341
or appropriate any funds for the payment of the principal or 48342
interest thereon. Such bonds shall be payable solely from the loan 48343
repayments the ~~commission~~ department receives from the franchisee 48344
to which the loan was made. The loan repayments shall be made from 48345
revenues that the franchisee receives from the operation of its 48346
portion of the rail system and that shall be pledged to repay the 48347
~~commission~~ department, or from such other credit sources as the 48348
franchisee may arrange. 48349

(B) The portion of the rail system awarded to a franchisee, 48350
any elements thereof, or the land upon which a franchise is 48351
situated may be owned by the franchisee or owned by the ~~commission~~ 48352
department and leased to the franchisee for the term of the 48353

franchise. 48354

(C) The rail system may be financed partially by the 48355
~~commission~~ department and partially by franchisees. With respect 48356
to that portion of the rail system financed by the ~~commission~~ 48357
department, the ~~commission~~ department may utilize all of the 48358
bonding and financial authority contained in sections ~~4981.01~~ 48359
5507.01 to ~~4981.26~~ 5507.26 of the Revised Code and also may seek 48360
to obtain state funding or federal financing on behalf of the rail 48361
system. ~~Commission~~ Department financing, credit support, and 48362
financial assistance may not be commingled with private financing 48363
obtained by the franchisee, and any moneys of the ~~commission~~ 48364
department to be expended by the ~~commission~~ department to finance 48365
a portion of a rail system shall be kept in accounts that are 48366
separate and apart from and not a part of the accounts in which 48367
are kept any moneys to be expended by a franchisee to finance its 48368
portion of a rail system. 48369

(D) The franchisee may arrange financing and refinancing of 48370
the system through any combination of debt, equity, and public 48371
sources available to it that it determines in its sole discretion. 48372
A franchisee shall not be precluded from utilizing any type of 48373
public or private assistance available to it in connection with 48374
the development of its franchise. A franchisee shall furnish the 48375
~~commission~~ department all relevant and necessary information with 48376
respect to financing terms to enable the ~~commission~~ department to 48377
exercise its oversight responsibilities with respect to the 48378
franchisee's reasonable return on its investment. 48379

(E) When requested by a franchisee, the ~~commission~~ department 48380
shall seek from the office of budget and management an allotment 48381
of proceeds from the issuance of private activity bonds. The 48382
~~commission~~ department shall distribute those proceeds to 48383
franchisees in such proportions and amounts as it determines in 48384
its discretion. 48385

(F)(1) The ~~commission~~ department may levy and collect special 48386
assessments upon all parcels of real property, other than real 48387
property owned by a railroad corporation, in the immediate 48388
vicinity of any rail system station or terminal of the ~~commission~~ 48389
department or a franchisee, including, without limitation, parcels 48390
that abut, are adjacent or contiguous to, or otherwise increase in 48391
value due to the existence of, the station or terminal. An 48392
assessment levied under this division shall be for the purpose of 48393
enabling the ~~commission~~ department to collect a portion of the 48394
increase in the true value in money of any such parcel of property 48395
subsequent to the commencement of operation of a rail system 48396
station or terminal. All assessments shall be applied, directly or 48397
indirectly, to the development and financing of the portion of the 48398
rail system of which the station or terminal is a part. 48399

(2) Upon written request of the ~~commission~~ department, the 48400
county auditor of a county in which a rail system station or 48401
terminal commences operation shall assess each parcel of real 48402
property that is located in the immediate vicinity of the station 48403
or terminal and that the ~~commission~~ department has reasonable 48404
cause to believe has increased in true value in money because of 48405
the existence of the station or terminal. The county auditor shall 48406
utilize appropriate assessment techniques specified in rules 48407
adopted by the tax commissioner pursuant to Chapter 5713. of the 48408
Revised Code to determine the increase in true value, if any, of 48409
the real property. Any increase shall be measured by comparing the 48410
true value of the real property in the year in which the 48411
~~commission adopted the resolution designating~~ department 48412
designated the location of the station or terminal, as reflected 48413
on the tax list for that year, with the highest true value of the 48414
real property as of the month in which rail system operations 48415
commenced at the station or terminal. The county auditor shall 48416
then determine what percentage of the true value increase, if any, 48417

is directly attributable to the existence of and commencement of 48418
operations at the station or terminal. The county auditor shall 48419
convert the percentage increase to an amount certain, and certify 48420
the results of the assessments to the ~~commission~~ department. 48421
Within thirty days after receipt of the certified results, the 48422
~~commission~~ department shall reimburse the county auditor for the 48423
actual cost to the auditor of making the assessments. 48424

(3) In no case shall any special assessment levied by the 48425
~~commission~~ department upon a parcel of real property exceed twenty 48426
per cent of the increase in the true value of the property that 48427
the county auditor certifies to the ~~commission~~ department as being 48428
directly attributable to the existence of and commencement of 48429
operations at the station or terminal. A special assessment shall 48430
constitute a lien against the property and shall be added to the 48431
tax list and duplicate for collection. Payments on the special 48432
assessment shall be made semiannually at the same time as real 48433
property taxes are required to be paid, but upon written request 48434
of the owner of the real property assessed, the county auditor may 48435
permit the owner to pay the assessment in equal installments over 48436
a period of not longer than ten years. 48437

(4) An owner of real property upon which a special assessment 48438
is levied under this section may file a petition in the court of 48439
common pleas of the county in which the real property is located 48440
challenging any aspect of the assessment, including the fact of 48441
the special assessment itself or the amount. The filing of such a 48442
petition shall stay the collection of any part of the special 48443
assessment, and collection shall not commence until a decision on 48444
the merits is rendered by the court. 48445

(G) Nothing in this section shall be construed as limiting 48446
the power of the ~~commission~~ department to issue bonds pursuant to 48447
section ~~4981.15~~ 5507.15 of the Revised Code for the purposes 48448
stated in that section. 48449

Sec. ~~4981.35~~ 5507.35. The "Interstate High Speed Intercity Rail Passenger Network Compact" is hereby ratified, enacted into law and entered into by the state of Ohio with all other states legally joining therein the form substantially as follows:

"INTERSTATE HIGH SPEED INTERCITY RAIL PASSENGER
NETWORK COMPACT

Article I
Policy and Purpose

Because the beneficial service of and profitability of a high speed intercity rail passenger system would be enhanced by establishing such a system which would operate across state lines, it is the policy of the states party to this compact to cooperate and share jointly the administrative and financial responsibilities of preparing a feasibility study concerning the operation of such a system connecting major cities in Ohio, Indiana, Michigan, Pennsylvania, Illinois, West Virginia, and Kentucky.

Article II
Cooperation

The states of Ohio, Indiana, Michigan, Pennsylvania, Illinois, West Virginia, and Kentucky, hereinafter referred to as participating states, agree to, upon adoption of this compact by the respective states, jointly conduct and participate in a high speed intercity rail passenger feasibility study by providing such information and data as is available and may be requested by a participating state or any consulting firms representing a participating state or the compact. It is mutually understood by the participating states that such information shall not include matters not of public record or of a nature considered to be privileged and confidential unless the state providing such

information agrees to waive the confidentiality. 48481

The participating states further agree to: 48482

(A) Make available to each other and to any consulting firm 48483
representing the member states or the compact such assistance as 48484
may be legal, proper and available, including but not limited to 48485
personnel, equipment, office space, machinery, computers, 48486
engineering and technical advice and services; and 48487

(B) Provide such financial assistance for the implementation 48488
of the feasibility study as may be legal, proper and available. 48489

Article III 48490

Interstate Rail Passenger Advisory Council 48491

There is hereby created an interstate rail passenger advisory 48492
council, the membership of which shall consist of two 48493
representatives from each participating state, one representative 48494
from each state shall hold a bachelor of science degree in either 48495
engineering or transportation science, and shall be appointed by 48496
the governor of the participating state and the other shall be the 48497
chairman of the state's railroad authority, but in the event said 48498
state does not have a railroad authority, the second member shall 48499
be the director of the participating state's transportation 48500
agency. The members shall select designees who shall serve in the 48501
absence of the members. The advisory council shall meet within 48502
thirty days after ratification of this agreement by at least two 48503
participating states and establish rules for the conduct of the 48504
advisory council's business. 48505

The advisory council shall coordinate all aspects of the high 48506
speed intercity rail passenger feasibility study relative to 48507
interstate connections and shall do all other things necessary and 48508
proper for the completion of the feasibility study. 48509

Article IV 48510

Effective Date 48511

This compact shall become effective upon the adoption of the compact into law by two or more of the participating states. Thereafter, it shall enter into force and effect as to any other participating state upon the enactment thereof by such state.

This compact shall continue in force with respect to a participating state and remain binding upon such state until six months after such state has given notice to each other participating state of the repeal thereof. Such withdrawal shall not be construed to relieve any participating state from any obligation incurred prior to the end of the state's participation in the compact as provided herein.

Article V

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters."

Sec. ~~4981.36~~ 5507.36. The "Midwest Interstate Passenger Rail Compact" is hereby ratified, enacted into law, and entered into by the state of Ohio with all other states legally joining therein in the form substantially as follows:

"MIDWEST INTERSTATE PASSENGER RAIL COMPACT

The contracting states solemnly agree:	48543
Article I	48544
Statement of Purpose	48545
The purposes of this compact are, through joint or cooperative action:	48546 48547
A) To promote development and implementation of improvements to intercity passenger rail service in the Midwest;	48548 48549
B) To coordinate interaction among Midwestern state elected officials and their designees on passenger rail issues;	48550 48551
C) To promote development and implementation of long-range plans for high speed rail passenger service in the Midwest and among other regions of the United States;	48552 48553 48554
D) To work with the public and private sectors at the federal, state and local levels to ensure coordination among the various entities having an interest in passenger rail service and to promote Midwestern interests regarding passenger rail; and	48555 48556 48557 48558
E) To support efforts of transportation agencies involved in developing and implementing passenger rail service in the Midwest.	48559 48560
Article II	48561
Establishment of Commission	48562
To further the purposes of the compact, a Commission is created to carry out the duties specified in this compact.	48563 48564
Article III	48565
Commission Membership	48566
The manner of appointment of Commission members, terms of office consistent with the terms of this compact, provisions for removal and suspension, and manner of appointment to fill vacancies shall be determined by each party state pursuant to its laws, but each commissioner shall be a resident of the state of appointment. Commission members shall serve without compensation	48567 48568 48569 48570 48571 48572

from the Commission. 48573

The Commission shall consist of four resident members of each 48574
state as follows: The governor or the governor's designee who 48575
shall serve during the tenure of office of the governor, or until 48576
a successor is named; one member of the private sector who shall 48577
be appointed by the governor and shall serve during the tenure of 48578
office of the governor, or until a successor is named; and two 48579
legislators, one from each legislative chamber (or two legislators 48580
from any unicameral legislature), who shall serve two-year terms, 48581
or until successors are appointed, and who shall be appointed by 48582
the appropriate appointing authority in each legislative chamber. 48583
All vacancies shall be filled in accordance with the laws of the 48584
appointing states. Any commissioner appointed to fill a vacancy 48585
shall serve until the end of the incomplete term. Each member 48586
state shall have equal voting privileges, as determined by the 48587
Commission bylaws. 48588

Article IV 48589

Powers and Duties of the Commission 48590

The duties of the Commission are to: 48591

1) Advocate for the funding and authorization necessary to 48592
make passenger rail improvements a reality for the region; 48593

2) Identify and seek to develop ways that states can form 48594
partnerships, including with rail industry and labor, to implement 48595
improved passenger rail in the region; 48596

3) Seek development of a long-term, interstate plan for high 48597
speed rail passenger service implementation; 48598

4) Cooperate with other agencies, regions and entities to 48599
ensure that the Midwest is adequately represented and integrated 48600
into national plans for passenger rail development; 48601

5) Adopt bylaws governing the activities and procedures of 48602
the Commission and addressing, among other subjects: the powers 48603

and duties of officers; the voting rights of Commission members, 48604
voting procedures, Commission business, and any other purposes 48605
necessary to fulfill the duties of the Commission; 48606

6) Expend such funds as required to carry out the powers and 48607
duties of the Commission; and 48608

7) Report on the activities of the Commission to the 48609
legislatures and governor of the member states on an annual basis. 48610

In addition to its exercise of these duties, the Commission 48611
is empowered to: 48612

1) Provide multistate advocacy necessary to implement 48613
passenger rail systems or plans, as approved by the Commission; 48614

2) Work with local elected officials, economic development 48615
planning organizations, and similar entities to raise the 48616
visibility of passenger rail service benefits and needs; 48617

3) Educate other state officials, federal agencies, other 48618
elected officials and the public on the advantages of passenger 48619
rail as an integral part of an intermodal transportation system in 48620
the region; 48621

4) Work with federal agency officials and Members of Congress 48622
to ensure the funding and authorization necessary to develop a 48623
long-term, interstate plan for high speed rail passenger service 48624
implementation. 48625

5) Make recommendations to members states; 48626

6) If requested by each state participating in a particular 48627
project and under the terms of a formal agreement approved by the 48628
participating states and the Commission, implement or provide 48629
oversight for specific rail projects; 48630

7) Establish an office and hire staff as necessary; 48631

8) Contract for or provide services; 48632

9) Assess dues, in accordance with the terms of this compact;	48633
10) Conduct research; and	48634
11) Establish committees.	48635
Article V	48636
Officers	48637
The Commission shall annually elect from among its members a	48638
chair, a vice-chair who shall not be a resident of the state	48639
represented by the chair, and others as approved in the Commission	48640
bylaws. The officers shall perform such functions and exercise	48641
such powers as are specified in the Commission bylaws.	48642
Article VI	48643
Meetings and Commission Administration	48644
The Commission shall meet at least once in each calendar	48645
year, and at such other times as may be determined by the	48646
Commission. Commission business shall be conducted in accordance	48647
with the procedures and voting rights specified in the bylaws.	48648
Article VII	48649
Finance	48650
Except as otherwise provided for, the monies necessary to	48651
finance the general operations of the Commission in carrying forth	48652
its duties, responsibilities and powers as stated herein shall be	48653
appropriated to the Commission by the compacting states, when	48654
authorized by the respective legislatures, by equal apportionment	48655
among the compacting states. Nothing in this compact shall be	48656
construed to commit a member state to participate in financing a	48657
rail project except as provided by law of a member state.	48658
The Commission may accept, for any of its purposes and	48659
functions, donations, gifts, grants, and appropriations of money,	48660
equipment, supplies, materials and services from the federal	48661
government, from any party state or from any department, agency,	48662
or municipality thereof, or from any institution, person, firm, or	48663

corporation. All expenses incurred by the Commission in executing 48664
the duties imposed upon it by this compact shall be paid by the 48665
Commission out of the funds available to it. The Commission shall 48666
not issue any debt instrument. The Commission shall submit to the 48667
officer designated by the laws of each party state, periodically 48668
as required by the laws of each party state, a budget of its 48669
actual past and estimated future expenditures. 48670

Article VIII 48671

Enactment, Effective Date and Amendments 48672

The states of Illinois, Indiana, Iowa, Kansas, Michigan, 48673
Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota 48674
and Wisconsin are eligible to join this compact. Upon approval of 48675
the Commission, according to its bylaws, other states may also be 48676
declared eligible to join the compact. As to any eligible party 48677
state, this compact shall become effective when its legislature 48678
shall have enacted the same into law; provided that it shall not 48679
become initially effective until enacted into law by any three (3) 48680
party states incorporating the provisions of this compact into the 48681
laws of such states. Amendments to the compact shall become 48682
effective upon their enactment by the legislatures of all 48683
compacting states. 48684

Article IX 48685

Withdrawal, Default and Termination 48686

Withdrawal from this compact shall be by enactment of a 48687
statute repealing the same and shall take effect one year after 48688
the effective date of such statute. A withdrawing state shall be 48689
liable for any obligations which it may have incurred prior to the 48690
effective date of withdrawal. 48691

If any compacting state shall at any time default in the 48692
performance of any of its obligations, assumed or imposed, in 48693
accordance with the provisions of this compact, all rights, 48694
privileges and benefits conferred by this compact or agreements 48695

hereunder shall be suspended from the effective date of such 48696
default as fixed by the Commission, and the Commission shall 48697
stipulate the conditions and maximum time for compliance under 48698
which the defaulting state may resume its regular status. Unless 48699
such default shall be remedied under the stipulations and within 48700
the time period set forth by the Commission, this compact may be 48701
terminated with respect to such defaulting state by affirmative 48702
vote of a majority of the other Commission members. Any such 48703
defaulting state may be reinstated, upon vote of the Commission, 48704
by performing all acts and obligations as stipulated by the 48705
Commission. 48706

Article X 48707

Construction and Severability 48708

The provisions of this compact entered into hereunder shall 48709
be severable and if any phrase, clause, sentence or provision of 48710
this compact is declared to be contrary to the constitution of any 48711
compacting state or of the United States or the applicability 48712
thereof to any government, agency, person or circumstance is held 48713
invalid, the validity of the remainder of this compact and the 48714
applicability thereof to any government, agency, person or 48715
circumstance shall not be affected hereby. If this compact entered 48716
into hereunder shall be held contrary to the constitution of any 48717
compacting state, the compact shall remain in full force and 48718
effect as to the remaining states and in full force and effect as 48719
to the state affected as to all severable matters. The provisions 48720
of this compact entered into pursuant hereto shall be liberally 48721
construed to effectuate the purposes thereof." 48722

Sec. ~~4981.361~~ 5507.361. In pursuance of Articles II and III 48723
of the Midwest Interstate Passenger Rail Compact, as set forth in 48724
section ~~4981.36~~ 5507.36 of the Revised Code, there shall be four 48725
members of the commission from this state. 48726

The governor shall appoint two members as set forth in 48727
Article III of the compact. The terms of office for the governor's 48728
appointments shall be in accordance with Article III of the 48729
compact. 48730

The speaker of the house of representatives and the president 48731
of the senate each shall appoint one member from their respective 48732
houses of the general assembly to serve as a member of the 48733
commission, but the two appointees shall not be members of the 48734
same political party. Terms of office for legislative appointees 48735
shall be in accordance with Article III of the compact. 48736

Any member shall continue in office subsequent to the 48737
expiration of the member's term until a successor is appointed. 48738
Vacancies in the commission shall be filled in the same manner as 48739
original selections are made. Any member of the commission may be 48740
reappointed. 48741

Except for the purposes of Chapters 102., 2744., and 2921. of 48742
the Revised Code, serving as a member of the commission does not 48743
constitute holding a public office or position of employment under 48744
the laws of this state and does not constitute grounds for removal 48745
of public officers or employees from their offices or positions of 48746
employment. 48747

The governor, speaker, or president may remove a member for 48748
whom the governor, speaker, or president was the appointing 48749
authority, for misfeasance, malfeasance, or willful neglect of 48750
duty. 48751

Members of the commission shall serve without compensation, 48752
but shall be reimbursed for the reasonable expenses incurred by 48753
them in the discharge of their duties as members of the 48754
commission. 48755

Sec. 5519.01. If the director of transportation is unable to 48756

purchase property for any purpose related to highways, roads, ~~or~~ 48757
~~bridges, or rail~~ authorized by Chapters 5501., 5503., ~~5507.,~~ 48758
5511., 5513., 5515., 5516., 5517., 5519., 5521., 5523., 5525., 48759
5527., 5528., 5529., 5531., 5533., and 5535. of the Revised Code, 48760
~~or, if the Ohio rail development commission is unable to purchase~~ 48761
~~property for any purpose necessary for the implementation of rail~~ 48762
~~service under Chapter 4981. of the Revised Code,~~ the director 48763
shall issue, ~~or the commission shall enter on the records of the~~ 48764
~~commission,~~ a finding that it is necessary, for the public 48765
convenience and welfare, to appropriate such property as the 48766
director ~~or commission~~ considers needed for such purposes. The 48767
finding shall contain a definite, accurate, and detailed 48768
description of the property, and the name and place of residence, 48769
if known or with reasonable diligence ascertainable, of the owner 48770
of the property appropriated. ~~The commission shall submit to the~~ 48771
~~director a copy of its record finding that the appropriation of~~ 48772
~~property is necessary. The commission shall not proceed with the~~ 48773
~~appropriation unless it is first approved by the director.~~ 48774

The director ~~or commission~~, in such finding, shall fix what 48775
the director ~~or commission~~ considers to be the value of such 48776
property appropriated, together with damages to the residue, and 48777
deposit the value thereof, together with the damages, with the 48778
probate court or the court of common pleas of the county within 48779
which the property, or a part thereof, is situated. The power to 48780
appropriate property for any purpose authorized by such chapters 48781
shall be exercised in the manner provided in sections 163.01 to 48782
163.22 of the Revised Code. 48783

Any instrument by which real property is acquired pursuant to 48784
this section shall identify the agency of the state that has the 48785
use and benefit of the real property as specified in section 48786
5301.012 of the Revised Code. 48787

Sec. 5703.054. (A) As used in this section: 48788

(1) "Tax return" means any tax notice, tax report, tax return, or other tax information document required to be filed with the tax commissioner under Chapter 3734., 3769., 4301., 4303., or 4305. or Title LVII of the Revised Code. 48789
48790
48791
48792

(2) "Tax payment" means any tax payment or remittance required to be made to the tax commissioner or treasurer of state under Chapter 3734., 3769., 4301., 4303., or 4305. or Title LVII of the Revised Code. 48793
48794
48795
48796

(B) The tax commissioner shall prescribe the form that the signature and declaration, if any, shall take on any document required to be filed with the commissioner and on any document required under Chapter 3734., 3769., 4303., or 4305. or Title LVII of the Revised Code to be filed with the treasurer of state. The commissioner may authorize an electronic or other alternative form of filing of any document required to be filed with the commissioner or the treasurer of state under Chapter 3734., 3769., 4303., or 4305. or Title LVII of the Revised Code. 48797
48798
48799
48800
48801
48802
48803
48804
48805

(C)(1) Subject to division (D) of this section, the tax commissioner may require that any tax return must be filed electronically in a format specified by the commissioner. 48806
48807
48808

(2) Subject to division (D) of this section, the commissioner may require that any tax payment or remittance must be made electronically in a format specified by the commissioner. 48809
48810
48811

(3) The commissioner may require electronic filing or electronic payment or remittance for all taxpayers or for only certain classes or groups of taxpayers. Nothing in this section requires that the commissioner concurrently exercise the authority granted under divisions (C)(1) and (2) of this section. 48812
48813
48814
48815
48816

(4) No person shall have any right to appeal the 48817

commissioner's decision under this section to require that all 48818
taxpayers or only certain classes or groups of taxpayers file 48819
electronically or pay or remit electronically. No person shall 48820
have any right to appeal the commissioner's selection under this 48821
section of the electronic format for such filing or payment or 48822
remittance. Nothing in this division limits a person's ability to 48823
appeal any penalty imposed under this section. 48824

(D) Divisions (C)(1) and (2) of this section apply only if 48825
either division (D)(1) or (2) of this section applies. 48826

(1) At least two months prior to the due date of the tax 48827
return or tax payment or remittance, the tax commissioner, by mail 48828
or other similar means, shall notify the taxpayer at the 48829
taxpayer's last known address that the tax return and all 48830
subsequent tax returns must be filed electronically in the format 48831
specified by the commissioner or that the tax payment or 48832
remittance and all subsequent tax payments or remittances must be 48833
made electronically in the format specified by the commissioner; 48834
or 48835

(2) At least four months prior to the due date of the tax 48836
return or tax payment a rule is in effect that the tax return and 48837
all subsequent tax returns must be filed electronically in the 48838
format specified by the commissioner and that the tax payment or 48839
remittance and all subsequent tax payments or remittances must be 48840
made electronically in the format specified by the commissioner. 48841

(E)(1) If, in accordance with this section, a taxpayer is 48842
required to file electronically a tax return but submits or 48843
attempts to submit a paper purporting to be the tax return, the 48844
tax commissioner may impose and assess, in addition to all other 48845
penalties and interest penalties provided by law, a penalty of up 48846
to five hundred dollars for each such paper tax return submitted, 48847
or attempted to be submitted, to the commissioner. 48848

(2) If, in accordance with this section, a taxpayer is 48849
required to pay or remit electronically but pays or remits in 48850
another manner, then the commissioner may impose and assess, in 48851
addition to all other penalties and interest penalties provided by 48852
law, a penalty of up to five hundred dollars for each such tax 48853
payment or remittance not made electronically. 48854

(F)(1) The tax commissioner may extend, for a period not to 48855
exceed twenty days, the due date for any tax return that is 48856
required to be filed electronically. Such extension shall apply to 48857
all taxpayers required to file electronically, and the extension 48858
is in addition to any other extension provided by law. 48859

(2)(a) The commissioner may extend, for a period not to 48860
exceed twenty days, the due date for any payment or remittance 48861
that is required to be remitted electronically. Such extension 48862
shall apply only to taxpayers required to pay or remit 48863
electronically under this section, and the extension is in 48864
addition to any other extension provided by law. 48865

(b) For purposes of computing any interest, interest penalty, 48866
penalty for failure to pay, or penalty for failure to pay timely, 48867
the extended due date granted under division (F)(2)(a) of this 48868
section shall be deemed to be the actual due date. 48869

(G) If a tax payment or remittance is required to be made 48870
electronically pursuant to this section, the tax payment or 48871
remittance is considered to be made when the payment or remittance 48872
is received by the treasurer of state or credited to an account 48873
designated by the treasurer of state for the receipt of tax 48874
payments or remittances. 48875

(H) A tax return filed electronically pursuant to this 48876
section is considered to be filed when transmitted as prescribed 48877
by the tax commissioner. 48878

Sec. 5703.19. (A) As used in this section, "records" includes 48879
books, memoranda, accounts, computer spreadsheets and databases, 48880
computer disks, electronically or digitally stored information, 48881
and any other medium used to store information. 48882

(B) To carry out the purposes of the laws that the tax 48883
commissioner is required to administer, the commissioner or any 48884
person employed by the commissioner for that purpose, upon demand, 48885
may inspect ~~books, accounts,~~ all or any part of the records, and 48886
~~memoranda~~ of any person ~~or public utility~~ subject to those laws, 48887
and may examine under oath any officer, agent, or employee of that 48888
person ~~or public utility~~. Any Taxpayers shall provide any record 48889
requested by the commissioner or any person employed by the 48890
commissioner. Records maintained electronically or digitally shall 48891
be provided to the commissioner on computer disk, computer tape, 48892
through electronic data transfer, or in such other form as 48893
prescribed or approved by the commissioner. Upon reasonable 48894
request, any person other than the commissioner who makes a demand 48895
pursuant to this section shall produce the person's authority to 48896
make the inspection. 48897

~~(B)~~(C) If a person ~~or public utility~~ receives at least ten 48898
days' written notice of a demand made under division ~~(A)~~(B) of 48899
this section and refuses to comply with that demand, a penalty of 48900
up to five hundred dollars shall may be imposed upon the person ~~or~~ 48901
~~public utility~~ for each day the person ~~or public utility~~ refuses 48902
to comply with the demand. ~~Penalties~~ The penalty imposed under 48903
this division may be assessed and collected in the same manner as 48904
~~assessments made under Chapter 3769., 4305., 5727., 5728., 5733.,~~ 48905
~~5735., 5739., 5743., 5745., 5747., 5749., or 5753., or sections~~ 48906
~~3734.90 to 3734.9014, of the Revised Code~~ the tax or fee to which 48907
the demand relates or may be billed separately by the 48908
commissioner. If the demand relates to more than one tax or fee, 48909

the commissioner may impose only one penalty for each day the 48910
person refuses to comply. 48911

(D) A taxpayer subject to a penalty under division (C) of 48912
this section shall, within sixty days after receiving notice of 48913
the penalty, pay the penalty or file with the tax commissioner, 48914
either personally or by certified mail, a written request for 48915
reconsideration signed by the taxpayer or the taxpayer's 48916
authorized agent having knowledge of the facts. 48917

Unless the taxpayer waives a hearing, the commissioner shall 48918
assign a time and place for a hearing on the request for 48919
reconsideration and shall notify the taxpayer of the time and 48920
place of the hearing by personal service or certified mail. The 48921
commissioner shall prepare a final determination affirming, 48922
modifying, or canceling the penalty and shall serve a copy of the 48923
final determination on the taxpayer by personal service or 48924
certified mail, and the commissioner's decision in the matter 48925
shall be final, subject to appeal as provided in section 5717.02 48926
of the Revised Code. 48927

Any penalty or portion of a penalty affirmed after 48928
reconsideration and appeal shall be due and payable within sixty 48929
days after issuance of the final determination or, if one or more 48930
appeals are taken in accordance with Chapter 5717. of the Revised 48931
Code, the exhaustion of all appeals. The penalty shall include 48932
interest at the rate per annum prescribed by section 5703.47 of 48933
the Revised Code from the day on which the request for 48934
reconsideration was filed until the day the penalty is paid. The 48935
commissioner shall deposit the taxpayer's remittance in the 48936
general revenue fund. 48937

Sec. 5703.491. (A) As used in this section, "Ohio business 48938
gateway" means the online computer network system, initially 48939
created by the department of administrative services under section 48940

125.30 of the Revised Code, that allows private businesses to 48941
electronically file business reply forms with state agencies. 48942

(B) The centralized tax filing and payment fund is hereby 48943
created in the state treasury. The department of taxation shall 48944
administer the fund. The department shall use money allocated to 48945
the fund for modifications to the Ohio business gateway or any 48946
successor electronic filing and payment system designed to 48947
simplify filing of municipal and state tax returns and payment of 48948
amounts shown to be due on such returns. 48949

Sec. 5703.56. (A) As used in this section: 48950

(1) "Sham transaction" means a transaction or series of 48951
transactions without economic substance because there is no 48952
business purpose or expectation of profit other than obtaining tax 48953
benefits. 48954

(2) "Tax" includes any tax or fee administered by the tax 48955
commissioner. 48956

(3) "Taxpayer" includes any entity subject to a tax. 48957

(4) "Controlled group" means two or more persons related in 48958
such a way that one person directly or indirectly owns or controls 48959
the business operation of another member of the group. In the case 48960
of persons with stock or other equity, one person owns or controls 48961
another if it directly or indirectly owns more than fifty per cent 48962
of the other person's common stock with voting rights or other 48963
equity with voting rights. 48964

(B) The tax commissioner may disregard any sham transaction 48965
in ascertaining any taxpayer's tax liability. Except as otherwise 48966
provided in the Revised Code, with respect to transactions between 48967
members of a controlled group, the taxpayer shall bear the burden 48968
of establishing by a preponderance of the evidence that a 48969
transaction or series of transactions between the taxpayer and one 48970

or more members of the controlled group was not a sham 48971
transaction. Except as otherwise provided in the Revised Code, for 48972
all other taxpayers, the tax commissioner shall bear the burden of 48973
establishing by a preponderance of the evidence that a transaction 48974
or series of transactions was a sham transaction. 48975

(C) In administering any tax, the tax commissioner may apply 48976
the doctrines of "economic reality," "substance over form," and 48977
"step transaction." 48978

(D) If the commissioner disregards a sham transaction under 48979
division (B) of this section, the applicable limitation period for 48980
assessing the tax, together with applicable penalties, charges, 48981
and interest, shall be extended for a period equal to the 48982
applicable limitation period. Nothing in this division shall be 48983
construed as extending an applicable limitation period for 48984
claiming any refund of a tax. 48985

(E) The tax commissioner may, in accordance with Chapter 119. 48986
of the Revised Code, adopt rules that are necessary to administer 48987
this section, including rules establishing criteria for 48988
identifying sham transactions. 48989

Sec. 5703.58. (A) As used in this section, "felony" has the 48990
same meaning as in section 109.511 of the Revised Code. 48991

(B) For the purposes of enforcing all laws relating to taxes 48992
and fees that the tax commissioner is responsible for 48993
administering, the tax commissioner, by journal entry, may 48994
delegate any investigation powers of the commissioner to an 48995
employee of the department of taxation who has been certified by 48996
the executive director of the Ohio peace officer training 48997
commission. Each journal entry shall be a matter of public record 48998
and shall be kept in an administrative portion of the journal 48999
maintained under division (L) of section 5703.05 of the Revised 49000
Code. When that journal entry is completed, the employee to whom 49001

it pertains, while engaged within the scope of the employee's 49002
duties in enforcing the laws that the commissioner is responsible 49003
for administering, has the power of a police officer to carry 49004
concealed weapons, make arrests, and obtain warrants for 49005
violations of those laws. The commissioner, at any time, may 49006
suspend or revoke the commissioner's delegation by journal entry. 49007

(C) The tax commissioner shall not delegate any investigation 49008
powers to an employee of the department of taxation under division 49009
(B) of this section if the employee has been convicted of or has 49010
pleaded guilty to a felony. 49011

(D)(1) The tax commissioner shall revoke the delegation of 49012
investigation powers to an employee to whom the delegation was 49013
made under division (B) of this section if that employee does 49014
either of the following: 49015

(a) Pleads guilty to a felony; 49016

(b) Pleads guilty to a misdemeanor pursuant to a negotiated 49017
plea agreement, as provided in division (D) of section 2929.29 of 49018
the Revised Code, in which the employee agrees under section 49019
109.77 of the Revised Code to surrender the certificate awarded to 49020
that employee. 49021

(2) The tax commissioner shall suspend the delegation of 49022
investigation powers to an employee to whom the delegation was 49023
made under division (B) of this section if that employee is 49024
convicted, after trial, of a felony. If the employee files an 49025
appeal from that conviction and the conviction is upheld by the 49026
highest court to which the appeal is taken, or if the employee 49027
does not file a timely appeal, the commissioner shall revoke the 49028
delegation of investigation powers to that employee. If the 49029
employee files an appeal that results in that employee's acquittal 49030
of the felony or conviction of a misdemeanor, or in the dismissal 49031
of the felony charge against that employee, the commissioner shall 49032

reinstate the delegation of investigation powers to that employee. 49033
The revocation, suspension, or reinstatement of the delegation of 49034
investigation powers to an employee under division (D) of this 49035
section shall be made by journal entry pursuant to division (B) of 49036
this section. An employee to whom the delegation of investigation 49037
powers is reinstated under division (D)(2) of this section shall 49038
not receive any back pay for the exercise of those investigation 49039
powers, unless that employee's conviction of the felony was 49040
reversed on appeal, or the felony charge was dismissed, because 49041
the court found insufficient evidence to convict the employee of 49042
the felony. 49043

(3) The revocation or suspension of the delegation of 49044
investigation powers to an employee under division (D) of this 49045
section shall be in accordance with Chapter 119. of the Revised 49046
Code. 49047

(E) Divisions (C) and (D) of this section do not apply to an 49048
offense that was committed prior to January 1, 1997. 49049

(F) Nothing in this section limits the tax commissioner's 49050
ability to have other employees of the department of taxation 49051
conduct investigations as authorized by sections 5703.17 and 49052
5703.19 of the Revised Code. 49053

(G) The department of taxation shall cooperate with the 49054
attorney general, local law enforcement officials, and appropriate 49055
agencies of the federal government and other states in the 49056
investigation and prosecution of violations of all laws relating 49057
to taxes and fees administered by the tax commissioner. 49058

Sec. 5703.80. There is hereby created in the state treasury 49059
the property tax administration fund. All money to the credit of 49060
the fund shall be used to defray the costs incurred by the 49061
department of taxation in administering the taxation of property 49062
and the equalization of real property valuation. 49063

Each fiscal year between the first and fifteenth days of July, the tax commissioner shall compute the following amounts for the property in each taxing district in each county, and certify to the director of budget and management the sum of those amounts for all taxing districts in all counties: 49064
49065
49066
49067
49068

(A) Three-tenths of one per cent of the total amount by which taxes charged against real property on the general tax list of real and public utility property were reduced under section 319.302 of the Revised Code for the preceding tax year; 49069
49070
49071
49072

(B) Fifteen-hundredths of one per cent of the total amount of taxes charged and payable against public utility personal property on the general tax list of real and public utility property for the preceding tax year; 49073
49074
49075
49076

(C) Seventy-five hundredths of one per cent of the total amount of taxes charged and payable against tangible personal property on the general tax list of personal property of the preceding tax year and for which returns were filed with the tax commissioner under section 5711.13 of the Revised Code. 49077
49078
49079
49080
49081

After receiving the tax commissioner's certification, the director of budget and management shall transfer from the general revenue fund to the property tax administration fund one-fourth of the amount certified on or before each of the following days: the first days of August, November, February, and May. 49082
49083
49084
49085
49086

On or before the thirtieth day of June of the fiscal year, the tax commissioner shall certify to the director of budget and management the sum of the amounts by which the amounts computed for a taxing district under divisions (A), (B), and (C) of this section exceeded the distributions to the taxing district under division (F) of section 321.24 of the Revised Code, and the director shall transfer that sum from the property tax administration fund to the general revenue fund. 49087
49088
49089
49090
49091
49092
49093
49094

Sec. 5705.19. This section does not apply to school districts 49095
or county school financing districts. 49096

The taxing authority of any subdivision at any time and in 49097
any year, by vote of two-thirds of all the members of the taxing 49098
authority, may declare by resolution and certify the resolution to 49099
the board of elections not less than seventy-five days before the 49100
election upon which it will be voted that the amount of taxes that 49101
may be raised within the ten-mill limitation will be insufficient 49102
to provide for the necessary requirements of the subdivision and 49103
that it is necessary to levy a tax in excess of that limitation 49104
for any of the following purposes: 49105

(A) For current expenses of the subdivision, except that the 49106
total levy for current expenses of a detention facility district 49107
or district organized under section 2151.65 of the Revised Code 49108
shall not exceed two mills and that the total levy for current 49109
expenses of a combined district organized under sections 2152.41 49110
and 2151.65 of the Revised Code shall not exceed four mills; 49111

(B) For the payment of debt charges on certain described 49112
bonds, notes, or certificates of indebtedness of the subdivision 49113
issued subsequent to January 1, 1925; 49114

(C) For the debt charges on all bonds, notes, and 49115
certificates of indebtedness issued and authorized to be issued 49116
prior to January 1, 1925; 49117

(D) For a public library of, or supported by, the subdivision 49118
under whatever law organized or authorized to be supported; 49119

(E) For a municipal university, not to exceed two mills over 49120
the limitation of one mill prescribed in section 3349.13 of the 49121
Revised Code; 49122

(F) For the construction or acquisition of any specific 49123
permanent improvement or class of improvements that the taxing 49124

authority of the subdivision may include in a single bond issue;	49125
(G) For the general construction, reconstruction,	49126
resurfacing, and repair of streets, roads, and bridges in	49127
municipal corporations, counties, or townships;	49128
(H) For parks and recreational purposes;	49129
(I) For the purpose of providing and maintaining fire	49130
apparatus, appliances, buildings, or sites therefor, or sources of	49131
water supply and materials therefor, or the establishment and	49132
maintenance of lines of fire alarm telegraph, or the payment of	49133
permanent, part-time, or volunteer firefighters or firefighting	49134
companies to operate the same, including the payment of the	49135
firefighter employers' contribution required under section 742.34	49136
of the Revised Code, or the purchase of ambulance equipment, or	49137
the provision of ambulance, paramedic, or other emergency medical	49138
services operated by a fire department or firefighting company;	49139
(J) For the purpose of providing and maintaining motor	49140
vehicles, communications, and other equipment used directly in the	49141
operation of a police department, or the payment of salaries of	49142
permanent police personnel, including the payment of the police	49143
officer employers' contribution required under section 742.33 of	49144
the Revised Code, or the payment of the costs incurred by	49145
townships as a result of contracts made with other political	49146
subdivisions in order to obtain police protection, or the	49147
provision of ambulance or emergency medical services operated by a	49148
police department;	49149
(K) For the maintenance and operation of a county home or	49150
detention facility;	49151
(L) For community mental retardation and developmental	49152
disabilities programs and services pursuant to Chapter 5126. of	49153
the Revised Code, except that the procedure for such levies shall	49154
be as provided in section 5705.222 of the Revised Code;	49155

(M) For regional planning;	49156
(N) For a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2152.41 or 2151.65 of the Revised Code or both of those sections;	49157 49158 49159 49160 49161
(O) For providing for flood defense, providing and maintaining a flood wall or pumps, and other purposes to prevent floods;	49162 49163 49164
(P) For maintaining and operating sewage disposal plants and facilities;	49165 49166
(Q) For the purpose of purchasing, acquiring, constructing, enlarging, improving, equipping, repairing, maintaining, or operating, or any combination of the foregoing, a county transit system pursuant to sections 306.01 to 306.13 of the Revised Code, or of making any payment to a board of county commissioners operating a transit system or a county transit board pursuant to section 306.06 of the Revised Code;	49167 49168 49169 49170 49171 49172 49173
(R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2152.41 or 2151.65 of the Revised Code or both of those sections;	49174 49175 49176 49177
(S) For the prevention, control, and abatement of air pollution;	49178 49179
(T) For maintaining and operating cemeteries;	49180
(U) For providing ambulance service, emergency medical service, or both;	49181 49182
(V) For providing for the collection and disposal of garbage or refuse, including yard waste;	49183 49184
(W) For the payment of the police officer employers'	49185

contribution or the firefighter employers' contribution required	49186
under sections 742.33 and 742.34 of the Revised Code;	49187
(X) For the construction and maintenance of a drainage	49188
improvement pursuant to section 6131.52 of the Revised Code;	49189
(Y) For providing or maintaining senior citizens services or	49190
facilities as authorized by section 307.694, 307.85, 505.70, or	49191
505.706 or division (EE) of section 717.01 of the Revised Code;	49192
(Z) For the provision and maintenance of zoological park	49193
services and facilities as authorized under section 307.76 of the	49194
Revised Code;	49195
(AA) For the maintenance and operation of a free public	49196
museum of art, science, or history;	49197
(BB) For the establishment and operation of a 9-1-1 system,	49198
as defined in section 4931.40 of the Revised Code;	49199
(CC) For the purpose of acquiring, rehabilitating, or	49200
developing rail property or rail service. As used in this	49201
division, "rail property" and "rail service" have the same	49202
meanings as in section 4981.01 <u>5507.01</u> of the Revised Code. This	49203
division applies only to a county, township, or municipal	49204
corporation.	49205
(DD) For the purpose of acquiring property for, constructing,	49206
operating, and maintaining community centers as provided for in	49207
section 755.16 of the Revised Code;	49208
(EE) For the creation and operation of an office or joint	49209
office of economic development, for any economic development	49210
purpose of the office, and to otherwise provide for the	49211
establishment and operation of a program of economic development	49212
pursuant to sections 307.07 and 307.64 of the Revised Code;	49213
(FF) For the purpose of acquiring, establishing,	49214
constructing, improving, equipping, maintaining, or operating, or	49215

any combination of the foregoing, a township airport, landing 49216
field, or other air navigation facility pursuant to section 505.15 49217
of the Revised Code; 49218

(GG) For the payment of costs incurred by a township as a 49219
result of a contract made with a county pursuant to section 49220
505.263 of the Revised Code in order to pay all or any part of the 49221
cost of constructing, maintaining, repairing, or operating a water 49222
supply improvement; 49223

(HH) For a board of township trustees to acquire, other than 49224
by appropriation, an ownership interest in land, water, or 49225
wetlands, or to restore or maintain land, water, or wetlands in 49226
which the board has an ownership interest, not for purposes of 49227
recreation, but for the purposes of protecting and preserving the 49228
natural, scenic, open, or wooded condition of the land, water, or 49229
wetlands against modification or encroachment resulting from 49230
occupation, development, or other use, which may be styled as 49231
protecting or preserving "greenspace" in the resolution, notice of 49232
election, or ballot form; 49233

(II) For the support by a county of a crime victim assistance 49234
program that is provided and maintained by a county agency or a 49235
private, nonprofit corporation or association under section 307.62 49236
of the Revised Code; 49237

(JJ) For any or all of the purposes set forth in divisions 49238
(I) and (J) of this section. This division applies only to a 49239
township. 49240

(KK) For a countywide public safety communications system 49241
under section 307.63 of the Revised Code. This division applies 49242
only to counties. 49243

(LL) For the support by a county of criminal justice services 49244
under section 307.45 of the Revised Code; 49245

(MM) For the purpose of maintaining and operating a jail or 49246

other detention facility as defined in section 2921.01 of the Revised Code; 49247
49248

(NN) For purchasing, maintaining, or improving, or any combination of the foregoing, real estate on which to hold agricultural fairs. This division applies only to a county. 49249
49250
49251

(OO) For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements; 49252
49253
49254
49255

(PP) For both of the purposes set forth in divisions (G) and (OO) of this section. 49256
49257

(QQ) For both of the purposes set forth in divisions (H) and (HH) of this section. This division applies only to a township. 49258
49259

(RR) For the legislative authority of a municipal corporation, board of county commissioners of a county, or board of township trustees of a township to acquire agricultural easements, as defined in section 5301.67 of the Revised Code, and to supervise and enforce the easements. 49260
49261
49262
49263
49264

(SS) For both of the purposes set forth in divisions (BB) and (KK) of this section. This division applies only to a county. 49265
49266

The resolution shall be confined to the purpose or purposes described in one division of this section, to which the revenue derived therefrom shall be applied. The existence in any other division of this section of authority to levy a tax for any part or all of the same purpose or purposes does not preclude the use of such revenues for any part of the purpose or purposes of the division under which the resolution is adopted. 49267
49268
49269
49270
49271
49272
49273

The resolution shall specify the amount of the increase in rate that it is necessary to levy, the purpose of that increase in rate, and the number of years during which the increase in rate 49274
49275
49276

shall be in effect, which may or may not include a levy upon the 49277
duplicate of the current year. The number of years may be any 49278
number not exceeding five, except as follows: 49279

(1) When the additional rate is for the payment of debt 49280
charges, the increased rate shall be for the life of the 49281
indebtedness. 49282

(2) When the additional rate is for any of the following, the 49283
increased rate shall be for a continuing period of time: 49284

(a) For the current expenses for a detention facility 49285
district, a district organized under section 2151.65 of the 49286
Revised Code, or a combined district organized under sections 49287
2152.41 and 2151.65 of the Revised Code; 49288

(b) For providing a county's share of the cost of maintaining 49289
and operating schools, district detention facilities, forestry 49290
camps, or other facilities, or any combination thereof, 49291
established under section 2152.41 or 2151.65 of the Revised Code 49292
or under both of those sections. 49293

(3) When the additional rate is for either of the following, 49294
the increased rate may be for a continuing period of time: 49295

(a) For the purposes set forth in division (I), (J), (U), or 49296
(KK) of this section; 49297

(b) For the maintenance and operation of a joint recreation 49298
district. 49299

(4) When the increase is for the purpose or purposes set 49300
forth in division (D), (G), (H), (CC), or (PP) of this section, 49301
the tax levy may be for any specified number of years or for a 49302
continuing period of time, as set forth in the resolution. 49303

(5) When the additional rate is for the purpose described in 49304
division (Z) of this section, the increased rate shall be for any 49305
number of years not exceeding ten. 49306

A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may be reduced pursuant to section 5705.261 or 5705.31 of the Revised Code. A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may also be terminated or permanently reduced by the taxing authority if it adopts a resolution stating that the continuance of the levy is unnecessary and the levy shall be terminated or that the millage is excessive and the levy shall be decreased by a designated amount.

A resolution of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under both sections 2152.41 and 2151.65 of the Revised Code may include both current expenses and other purposes, provided that the resolution shall apportion the annual rate of levy between the current expenses and the other purpose or purposes. The apportionment need not be the same for each year of the levy, but the respective portions of the rate actually levied each year for the current expenses and the other purpose or purposes shall be limited by the apportionment.

Whenever a board of county commissioners, acting either as the taxing authority of its county or as the taxing authority of a sewer district or subdistrict created under Chapter 6117. of the Revised Code, by resolution declares it necessary to levy a tax in excess of the ten-mill limitation for the purpose of constructing, improving, or extending sewage disposal plants or sewage systems, the tax may be in effect for any number of years not exceeding twenty, and the proceeds of the tax, notwithstanding the general provisions of this section, may be used to pay debt charges on any obligations issued and outstanding on behalf of the subdivision for the purposes enumerated in this paragraph, provided that any such obligations have been specifically described in the resolution.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution is necessary other than that provided for in the notice of election.

When the electors of a subdivision have approved a tax levy under this section, the taxing authority of the subdivision may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

Sec. 5707.03. Annual taxes are hereby levied on the kinds of intangible property, enumerated in this section, on the intangible property tax list in the office of the treasurer of state at the following rates:

(A) On investments, five per cent of income yield or of income as provided by section 5711.10 of the Revised Code for the 1983, 1984, and 1985 return years and no tax for subsequent return years;

(B) On unproductive investments, two mills on the dollar for the 1983, 1984, and 1985 return years and no tax for subsequent return years;

(C) On deposits, one and three-eighths mills on the dollar for the 1982 and 1983 return years and no tax for subsequent return years;

(D) On shares of, and capital employed by, dealers in intangibles, eight mills on the dollar through the 2003 return year and no tax for subsequent return years;

(E) On money, credits, and all other taxable intangibles, three mills on the dollar for the 1983, 1984, and 1985 return years and no tax for subsequent return years.

The object and distribution of such taxes shall be as provided in section 5725.24 of the Revised Code.

Sec. 5709.01. (A) All real property in this state is subject 49369
to taxation, except only such as is expressly exempted therefrom. 49370

(B) Except as provided by division (C) of this section or 49371
otherwise expressly exempted from taxation: 49372

(1) All personal property located and used in business in 49373
this state, and all domestic animals kept in this state and not 49374
used in agriculture are subject to taxation, regardless of the 49375
residence of the owners thereof. 49376

(2) All ships, vessels, and boats, and all shares and 49377
interests therein, defined in section 5701.03 of the Revised Code 49378
as personal property and belonging to persons residing in this 49379
state, and aircraft belonging to persons residing in this state 49380
and not used in business wholly in another state, other than 49381
aircraft licensed in accordance with sections 4561.17 to 4561.21 49382
of the Revised Code, are subject to taxation. 49383

(C) The following property of the kinds mentioned in division 49384
(B) of this section shall be exempt from taxation: 49385

(1) Unmanufactured tobacco to the extent of the value, or 49386
amounts, of any unpaid nonrecourse loans thereon granted by the 49387
United States government or any agency thereof. 49388

(2) Spirituous liquor, as defined in division (B)(5) of 49389
section 4301.01 of the Revised Code, that is stored in warehouses 49390
in this state pursuant to an agreement with the division of liquor 49391
control. 49392

(3) Except as otherwise provided in section 5711.27 or 49393
5727.01 of the Revised Code, all other such property if the 49394
aggregate taxable value thereof required to be listed by the 49395
taxpayer under Chapter 5711. of the Revised Code does not exceed 49396
ten thousand dollars. 49397

(a) If the taxable value of such property exceeds ten 49398

thousand dollars only such property having an aggregate taxable value of ten thousand dollars shall be exempt. 49399
49400

(b) If such property is located in more than one taxing district as defined in section 5711.01 of the Revised Code, the exemption of ten thousand dollars shall be applied as follows: 49401
49402
49403

(i) The taxable value of such property in the district having the greatest amount of such value shall be reduced until the exemption has been fully utilized or the value has been reduced to zero, whichever occurs first; 49404
49405
49406
49407

(ii) If the exemption has not been fully utilized under division (C)(3)(b)(i) of this section, the value in the district having the second greatest value shall be reduced until the exemption has been fully utilized or the value has been reduced to zero, whichever occurs first; 49408
49409
49410
49411
49412

(iii) If the exemption has not been fully utilized under division (C)(3)(b)(ii) of this section, further reductions shall be made, in repeated steps which include property in districts having declining values, until the exemption has been fully utilized. 49413
49414
49415
49416
49417

(D) All property mentioned as taxable in this section shall be entered on the general tax list and duplicate of taxable property. 49418
49419
49420

Sec. 5709.20. As used in sections 5709.20 to 5709.27 of the Revised Code: 49421
49422

(A) "Air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, vapor, or odorous substances, or any combination thereof. 49423
49424
49425

(B) "Air pollution control facility" means any property designed, constructed, or installed for the primary purpose of eliminating or reducing the emission of, or ground level 49426
49427
49428

concentration of, air contaminants ~~which~~ generated at an 49429
industrial or commercial plant or site that renders air harmful or 49430
inimical to the public health or to property within this state. 49431

(C) "Energy conversion" means the conversion of fuel or power 49432
usage and consumption from natural gas to an alternate fuel or 49433
power source other than propane, butane, naphtha, or fuel oil; or 49434
the conversion of fuel or power usage and consumption from fuel 49435
oil to an alternate fuel or power source other than natural gas, 49436
propane, butane, or naphtha. 49437

(D) "Energy conversion facility" means any additional 49438
property or equipment designed, constructed, or installed after 49439
December 31, 1974, for use at an industrial or commercial plant or 49440
site for the primary purpose of energy conversion. 49441

(E) "Exempt facility" means any of the facilities defined in 49442
division (B), (D), (F), (I), (K), or (L) of this section for which 49443
an exempt facility certificate is issued pursuant to section 49444
5709.21 of the Revised Code. 49445

(F) "Noise pollution control facility" means any property 49446
designed, constructed, or installed ~~in or on~~ for use at an 49447
industrial or commercial plant or site for the primary purpose of 49448
eliminating or reducing, at that plant or site, the emission of 49449
sound which is harmful or inimical to persons or property, or 49450
materially reduces the quality of the environment, as shall be 49451
determined by the director of environmental protection within such 49452
standards for noise pollution control facilities and standards for 49453
environmental noise necessary to protect public health and welfare 49454
as may be promulgated by the United States environmental 49455
protection agency. In the absence of such United States 49456
environmental protection agency standards, the determination shall 49457
be made in accordance with generally accepted current standards of 49458
good engineering practice in environmental noise control. 49459

Facilities (G) "Solid waste" means such unwanted residual solid or semi-solid material as results from industrial operations, including those of public utility companies, and commercial, distribution, research, agricultural, and community operations, including garbage, combustible or noncombustible, street dirt, and debris. 49460
49461
49462
49463
49464
49465

(H) "Solid waste energy conversion" means the conversion of solid waste into energy and the utilization of such energy for some useful purpose. 49466
49467
49468

(I) "Solid waste energy conversion facility" means any property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or a commercial plant or site for the primary purpose of solid waste energy conversion. 49469
49470
49471
49472

(J) "Thermal efficiency improvement" means the recovery and use of waste heat or waste steam produced incidental to electric power generation, industrial process heat generation, lighting, refrigeration, or space heating. 49473
49474
49475
49476

(K) "Thermal efficiency improvement facility" means any property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or a commercial plant or site for the primary purpose of thermal efficiency improvement. 49477
49478
49479
49480

(L) "Industrial water pollution control facility" means any property designed, constructed, or installed for the primary purpose of collecting or conducting industrial waste to a point of disposal or treatment; reducing, controlling, or eliminating water pollution caused by industrial waste; or reducing, controlling, or eliminating the discharge into a disposal system of industrial waste or what would be industrial waste if discharged into the waters of this state. This division applies only to property related to a facility placed into operation or initially capable of operation after December 31, 1965, and installed pursuant to 49481
49482
49483
49484
49485
49486
49487
49488
49489
49490

the approval of the environmental protection agency or any other governmental agency having authority to approve the installation of industrial water pollution control facilities. The definitions in section 6111.01 of the Revised Code, as applicable, apply to the terms used in this division. 49491
49492
49493
49494
49495

(M) Property designed, constructed, installed, used, or placed in operation ~~solely~~ primarily for the safety, health, protection, or benefit, or any combination thereof, of personnel, ~~or by~~ of a business ~~solely for its~~, or primarily for a business's own benefit, ~~are not pollution control facilities~~ is not an "exempt facility." 49496
49497
49498
49499
49500
49501

Sec. 5709.201. (A) Except as provided in division (C)(4) of section 5709.22 and division (F) of section 5709.25 of the Revised Code, a certificate issued under section 5709.21, 5709.31, 5709.46, or 6111.03 of the Revised Code that was valid and in effect on the effective date of . B. of the 125th general assembly shall continue in effect subject to the law as it existed before that effective date. 49502
49503
49504
49505
49506
49507
49508

(B) Any applications pending on the effective date of that act for which a certificate had not been issued on or before that effective date under section 6111.03 of the Revised Code shall be transferred to the tax commissioner for further administering. Sections 5709.20 to 5709.27 of the Revised Code apply to such pending applications, excluding the requirement of section 5709.212 of the Revised Code that applicants must pay the one thousand dollar fee. 49509
49510
49511
49512
49513
49514
49515
49516

Sec. 5709.21. (A) As used in this section: 49517

(1) "Exclusive property" means property that is installed, used, and necessary for the operation of an exempt facility, and that is not auxiliary property. 49518
49519
49520

(2) "Auxiliary property" means property installed, used, and necessary for the operation of an exempt facility that is also used in other operations of the business other than an exempt facility purpose described in section 5709.20 of the Revised Code.

(3) "Auxiliary property exempt cost" means the cost of auxiliary property calculated using one of the following procedures:

(a) If the auxiliary property is used for an exempt facility purpose for discrete periods of time, the exempt cost shall be determined by the ratio of time the auxiliary property is in use in such exempt capacity to the total time it is in use. If it is possible to determine the exempt cost under division (A)(3)(a) of this section, the procedures set forth in divisions (A)(3)(b) and (c) of this section do not apply.

(b) If the auxiliary property replaces existing property and is necessary to allow for the proper operation of the exempt facility, the exempt cost of the auxiliary property shall be determined using the cost of the auxiliary property less the original acquisition cost of the property being replaced. If the result is less than zero, the exempt cost shall be zero.

(c) If the cost of replacement auxiliary property is less than the cost of existing auxiliary property, or if the auxiliary property is not replacing existing property and is necessary to allow for the proper operation of the exempt facility, the exempt cost of the auxiliary property shall be determined using the cost of the auxiliary property less the cost that would have been incurred if the auxiliary property was not necessary for an exempt facility purpose as described in section 5709.20 of the Revised Code. If the result is less than zero, the exempt cost shall be zero.

(d) Any cost related to an expansion of the commercial or

industrial site that is not related to the operation of the exempt facility shall not be included as an auxiliary exempt cost under division (A)(3) of this section. 49552
49553
49554

(B) Application for an air or noise pollution control exempt facility certificate shall be filed with the tax commissioner in such manner and in such form as may be prescribed by regulations issued by the tax commissioner and. The application shall contain plans and specifications of the structure or structures property, including all materials incorporated and or to be incorporated therein and their associated costs, and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of air or noise pollution control exempt facility and its associated cost. If the commissioner, after obtaining the opinion of the director of environmental protection, finds that the proposed facility property was designed primarily for the control of air or noise pollution as defined in section 5709.20 of the Revised Code, as an exempt facility and is suitable and reasonably adequate for such purpose and is intended for such purpose, he the commissioner shall enter a finding and issue a certificate to that effect. Said certificate shall permit tax exemption pursuant to section 5709.25 of the Revised Code only for that portion of such pollution control facility or that part used exclusively for air or noise pollution control. The effective date of said the certificate shall be the date of the making of the application was made for such certificate or the date of the construction of the facility, whichever is earlier; provided, that if such application relates to facilities placed in operation or capable of operation prior to October 2, 1969, the effective date of the certificate shall be the date of the application. 49555
49556
49557
49558
49559
49560
49561
49562
49563
49564
49565
49566
49567
49568
49569
49570
49571
49572
49573
49574
49575
49576
49577
49578
49579
49580

Nothing in this section shall be construed to extend the time period to file, to keep the time period to file open, or supersede the requirement of filing a tax refund or other tax reduction 49581
49582
49583

request in the manner and within the time prescribed by law. 49584

(C)(1) Except as provided in division (C)(2) of this section, 49585
the certificate shall permit tax exemption pursuant to section 49586
5709.25 of the Revised Code only for that portion of such exempt 49587
facility that is exclusive property used for a purpose enumerated 49588
in section 5709.20 of the Revised Code. 49589

(2) Auxiliary property shall be permitted a partial tax 49590
exemption under section 5709.25 of the Revised Code, but only to 49591
the extent allowed pursuant to division (A)(3) of this section. 49592

(D) The tax commissioner may allow an applicant to file one 49593
application that applies to more than one exempt facility that are 49594
the same or substantially similar, so long as such facilities are 49595
located within the same county. 49596

Sec. 5709.211. (A) Before issuing an exempt facility 49597
certificate pursuant to section 5709.21 of the Revised Code, the 49598
tax commissioner shall provide a copy of a properly completed 49599
application to, and obtain the opinion of, the director of 49600
environmental protection in the case of an exempt facility 49601
described in division (B), (F), or (L) of section 5709.20 of the 49602
Revised Code, or provide a copy of the application to, and obtain 49603
the opinion of, the director of development in the case of an 49604
application for an exempt facility described in division (D), (I), 49605
or (K) of section 5709.20 of the Revised Code. The opinion shall 49606
provide the commissioner with a recommendation of whether the 49607
property is primarily designed, constructed, installed, and used 49608
as an exempt facility. The applicant shall provide additional 49609
information upon request by the tax commissioner, the director of 49610
environmental protection, or the director of development, and 49611
allow them to inspect the property listed in the application for 49612
the purposes of sections 5709.20 to 5709.27 of the Revised Code. 49613
The tax commissioner shall provide to the applicant a copy of the 49614

opinion issued by either the director of environmental protection 49615
or the director of the department of development. 49616

(B) The opinions of the director of the environmental 49617
protection agency and the director of development are not final 49618
actions or orders subject to appeal. 49619

Sec. 5709.212. (A) With every application for an exempt 49620
facility certificate filed pursuant to section 5709.21 of the 49621
Revised Code, the applicant shall pay a fee in the amount of one 49622
thousand dollars. One-half of the fee received with applications 49623
for exempt facility certificates shall be credited to the exempt 49624
facility administrative fund, which is hereby created in the state 49625
treasury, for appropriation to the department of taxation for use 49626
in administering sections 5709.20 to 5709.27 of the Revised Code. 49627
If the director of environmental protection is required to provide 49628
the opinion for an application, one-half of the fee shall be 49629
credited to the clean air fund created in section 3704.035 of the 49630
Revised Code for use in administering section 5709.211 of the 49631
Revised Code, unless the application is for an industrial water 49632
pollution control facility. If the application is for an 49633
industrial water pollution control facility, one-half of the fee 49634
shall be credited to the surface water protection fund created in 49635
section 6111.038 of the Revised Code for use in administering 49636
section 5709.211 of the Revised Code. If the director of 49637
development is required to provide the opinion for an application, 49638
one-half of the fee for each exempt facility application shall be 49639
credited to the exempt facility inspection fund, which is hereby 49640
created in the state treasury, for appropriation to the department 49641
of development for use in administering section 5709.211 of the 49642
Revised Code. 49643

An applicant is not entitled to any tax exemption under 49644
section 5709.25 of the Revised Code until the fee required by this 49645

section is paid. The fee required by this section is not 49646
refundable, and is due with the application for an exempt facility 49647
certificate even if an exempt facility certificate ultimately is 49648
not issued or is withdrawn. Any application submitted without 49649
payment of the fee shall be deemed incomplete until the fee is 49650
paid. 49651

(B) The application fee imposed under division (A) of this 49652
section for a jointly owned facility shall be one thousand dollars 49653
for each facility that is the subject of the application. 49654

~~Sec. 5709.22. Before issuing any certificate the tax~~ 49655
~~commissioner shall give notice in writing by mail to the auditor~~ 49656
~~of the county in which such facilities are located, and shall~~ 49657
~~afford to the applicant and to the auditor an opportunity for a~~ 49658
~~hearing. On like notice to the applicant and opportunity for a~~ 49659
~~hearing, the commissioner shall on his (A) After receiving an~~ 49660
opinion from the director of environmental protection or the 49661
director of development, the tax commissioner shall promptly 49662
ascertain if an application filed under section 5709.21 of the 49663
Revised Code shall be allowed or disallowed in whole or in part. 49664
The commissioner shall give written notice of the proposed finding 49665
to the applicant and the county auditor of the county in which the 49666
facility described in the application is located. Within sixty 49667
days after sending written notice of the proposed finding, the 49668
applicant or the county auditor may file a request for 49669
reconsideration, in writing, to the commissioner and may request 49670
that the commissioner conduct a hearing on the application. If no 49671
request for reconsideration is filed, the commissioner's proposed 49672
findings shall be final and, if applicable, the commissioner shall 49673
issue an exempt facility certificate, which shall not be subject 49674
to appeal pursuant to section 5717.02 of the Revised Code. 49675

(B) If a reconsideration of the tax commissioner's proposed 49676

finding is requested by the applicant or the county auditor, the 49677
commissioner shall notify the applicant and the auditor of the 49678
time and place of the hearing, which the commissioner may continue 49679
from time to time as the commissioner finds necessary. The 49680
commissioner also shall notify the environmental protection agency 49681
or department of development, as applicable, of the hearing. The 49682
environmental protection agency or the department of development 49683
shall participate in the hearing if requested in writing by the 49684
commissioner, the applicant, or the county auditor. After 49685
conducting the hearing, the commissioner shall issue a final 49686
determination, with a copy of it served on the applicant and 49687
applicable county auditors in the manner prescribed by section 49688
5703.37 of the Revised Code. The final determination is subject to 49689
appeal pursuant to section 5717.02 of the Revised Code. Once all 49690
appeals are exhausted, the commissioner shall issue, if 49691
applicable, the exempt facility certificate based on the outcome 49692
of the appeal. 49693

(C) The tax commissioner, on the commissioner's own 49694
initiative or on complaint by the county auditor of ~~the~~ any county 49695
in which ~~any~~ property to which ~~such air or noise pollution control~~ 49696
the exempt facility certificate relates is located, shall revoke 49697
~~such air or noise pollution control certificate whenever any of~~ 49698
~~the following appears~~ the certificate, or modify it by restricting 49699
its operation, if it appears to the commissioner that any of the 49700
following has occurred: 49701

~~(A)~~(1) The certificate was obtained by fraud or 49702
misrepresentation; 49703

~~(B)~~(2) The holder of the certificate has failed substantially 49704
to proceed with the construction, reconstruction, installation, or 49705
acquisition of ~~air or noise pollution control facilities~~ an exempt 49706
facility; 49707

~~(C)~~(3) The ~~structure or equipment or both~~ property to which 49708

the certificate relates has ceased to be used for the primary 49709
purpose of pollution control and is being used for a different 49710
purpose. 49711

~~Provided, that where the circumstances so require, the 49712
commissioner in lieu of revoking such certificate may modify the 49713
same by restricting its operations as an exempt facility;~~ 49714

(4) The tax commissioner issued the certificate in error. As 49715
used in this section, "error" means a clerical or mathematical 49716
mistake, or when the tax commissioner determines that the issuance 49717
of the certificate may have been improper as the result of a final 49718
adjudication by the board of tax appeals, or by a court with 49719
jurisdiction on appeal from that board, that is adverse to the 49720
original exempt status of the facility, regardless of whether the 49721
holder of the certificate was a party to such adjudication. 49722

~~On the mailing of notice of the action of the commissioner 49723
revoking or modifying an air or noise pollution control 49724
certificate as provided in section 5709.23 of the Revised Code, 49725
such (D) Upon service of notice certificate to the holder of an 49726
exempt facility certificate, in the manner provided in section 49727
5703.37 of the Revised Code, of the tax commissioner's revocation 49728
or modification of the certificate under division (C) of this 49729
section, the certificate shall cease to be in force or shall 49730
remain in force only as modified, as the case may require. The 49731
notice is subject to appeal under section 5717.02 of the Revised 49732
Code. Once all appeals are exhausted, the commissioner shall issue 49733
a modified certificate, if applicable, and the holder of the 49734
certificate shall be allowed to claim a refund within one hundred 49735
eighty days, notwithstanding any other time limitation provided by 49736
law of the taxes paid as a result of the certificate being revoked 49737
or modified. 49738~~

Sec. 5709.23. (A) As soon as is practicable after receiving 49739

an application for an exempt facility certificate, the tax 49740
commissioner shall provide a copy of the application and any 49741
accompanying documentation to the county auditor of the county in 49742
which the facility is located. The copy shall be accompanied by a 49743
statement showing an estimate of what the assessed value of the 49744
facility would be, based on the appropriate assessment percentage, 49745
if the facility were to be taxable, and an estimate of the taxes 49746
that would be chargeable against the facility computed on the 49747
basis of the rate of taxation in the taxing district in the year 49748
in which the application is received. Within sixty days after 49749
receiving such a statement, the county auditor shall issue a 49750
notice to the taxing authority of each taxing unit in which the 49751
facility is or is to be located. The notice shall state that an 49752
application for an exempt facility certificate has been filed for 49753
the facility; the estimated assessed value of the facility shown 49754
on the statement; the annual amount of taxes that would be charged 49755
and payable on that value at the current rate of taxation in 49756
effect in the taxing unit; and that, if approved, the application 49757
entitles the facility to exemption from taxation and the taxing 49758
unit may be required to refund any taxes on the facility accruing 49759
after the certificate becomes effective. The tax commissioner 49760
shall issue an amended statement if, after the original statement 49761
is issued, the estimate of such assessed value increases or 49762
decreases by more than ten per cent of the estimated value shown 49763
on the most recently issued statement or amended statement, and 49764
the county auditor shall issue an amended notice reflecting such 49765
change. 49766

(B) Upon request by the county auditor of the county in which 49767
the exempt facility described in the application is located, the 49768
tax commissioner shall provide the county auditor with any 49769
documents submitted with the opinion of the director of 49770
environmental protection or director of development, including a 49771
copy of opinion. 49772

(C) Any documents, statements, and notices provided for under this section are solely for the purpose of notifying taxing authorities of the existence of an exempt facility application and the potential for a refund of taxes paid on an exempt facility before a tax exemption certificate is issued. Such documents, statements and notices do not constitute an assessment that is subject to a petition for reassessment nor are such documents, statements, and notices appealable under section 5717.02 of the Revised Code by any person. 49773
49774
49775
49776
49777
49778
49779
49780
49781

(D) The documents, statements and notices provided by the tax commissioner under this section are subject to all applicable confidentiality provisions of law. 49782
49783
49784

Sec. 5709.24. The tax commissioner may adopt rules to administer sections 5709.20 to 5709.27 of the Revised Code. 49785
49786

Sec. 5709.25. (A) Whenever an ~~air or noise pollution control~~ exempt facility certificate is issued ~~on a pollution control~~ ~~facility~~, the transfer of tangible personal property to the holder of the certificate, whether such transfer takes place before or after the issuance of the certificate, shall not be considered a "sale" of such tangible personal property for the purpose of the sales tax, or a "use" for the purpose of the use tax, if the tangible personal property is to be or was a material or part to be incorporated into an ~~air or noise pollution control~~ exempt facility ~~as defined in section 5709.20 of the Revised Code.~~ 49787
49788
49789
49790
49791
49792
49793
49794
49795
49796

(B) For the period subsequent to the effective date of an ~~air or noise pollution control~~ exempt facility certificate and continuing for so long as the certificate is in force, no ~~pollution control~~ exempt facility or certified portion thereof shall be considered to be either of the following: 49797
49798
49799
49800
49801

(1) An improvement on the land on which the ~~same~~ exempt 49802

facility is located for the purpose of real property taxation; 49803

(2) As "used in business" for the purpose of personal 49804
property taxation; 49805

~~(3) As an asset of any corporation in determining the value 49806
of its issued and outstanding shares or the value of the property 49807
owned and used by it in this state for the purpose of the 49808
franchise tax. 49809~~

(C)(1) The tax commissioner, upon receiving a properly 49810
completed application for an exempt facility certificate, may 49811
allow the applicant to claim the exemption provided by this 49812
section before the commissioner issues the certificate. The 49813
applicant is entitled to the exemption unless the commissioner 49814
notifies the applicant otherwise by serving notice upon the 49815
applicant in the manner prescribed by section 5703.37 of the 49816
Revised Code. 49817

(2) A taxpayer whose tangible personal property is subject to 49818
taxation under Chapter 5727. of the Revised Code shall notify the 49819
commissioner in writing of any property the applicant does not 49820
want the commissioner to exclude as exempt property. The notice 49821
shall be provided before the date the commissioner issues the 49822
preliminary assessment under section 5727.23 of the Revised Code. 49823

(D)(1) Notwithstanding any other time limitations imposed by 49824
law, the commissioner may assess any additional tax or may assess 49825
any additional taxable property, including any applicable 49826
interest, on the denied portion of the applicant's claim for an 49827
exempt facility that the applicant claimed prior to the exempt 49828
facility certificate being issued or the application being denied. 49829
Any time after two years from the filing of the application, the 49830
applicant may demand in writing that the commissioner, within 49831
ninety days after the demand is received, issue findings with 49832
regard to the application as provided in section 5709.22 of the 49833

Revised Code even if the commissioner has not received an opinion 49834
of exemption pursuant to section 5709.211 of the Revised Code. No 49835
assessment shall be made pursuant to this division after one 49836
hundred eighty days from the date the commissioner mails the 49837
exempt facility certificate or notice of the denial of the exempt 49838
facility certificate pursuant to section 5709.22 of the Revised 49839
Code. Nothing in this section shall prohibit an assessment that 49840
otherwise may be timely made by law. 49841

(2) Assessments issued pursuant to division (D)(1) of this 49842
section shall be issued as amended preliminary assessment 49843
certificates under section 5711.31 of the Revised Code for 49844
personal property tax, as amended preliminary assessment 49845
certificates under section 5727.23 of the Revised Code for public 49846
utility tax, and as assessments under section 5733.11 of the 49847
Revised Code for corporation franchise tax, section 5739.13 of the 49848
Revised Code for sales tax, and section 5741.11 of the Revised 49849
Code for use tax, and are subject to the same appeal requirements 49850
as defined in these sections. 49851

(3) Nothing in division (D) of this section allows the tax 49852
commissioner, after the expiration of the time limitation, to 49853
issue an assessment referenced in division (D)(2) of this section 49854
that increases any tax beyond the amount claimed by the applicant 49855
as an exempt facility. 49856

(4) If an assessment is issued for only the denied portion of 49857
the application for an exempt facility, the only issue the 49858
applicant is permitted to raise on appeal of the assessment 49859
referenced in division (D)(2) of this section is that of the 49860
taxable property or transaction constituting the denied portion of 49861
the applicant's claim for an exempt facility. 49862

(E) Except as otherwise provided in this division, no 49863
exemption for additional property shall be claimed under this 49864
section after an exempt facility certificate has been issued for 49865

that facility unless the applicant files a new application under 49866
section 5709.21 of the Revised Code. The tax commissioner shall 49867
waive the requirement to file a new application under section 49868
5709.21 of the Revised Code if the cost of the additional 49869
property, net of retirements for similar property, does not exceed 49870
five hundred thousand dollars during any calendar year. The fee 49871
imposed under section 5709.212 of the Revised Code for 49872
applications filed as a result of this division shall be five 49873
hundred dollars. 49874

(F) If, as the result of a revaluation due to sale or 49875
bankruptcy or any other reason, the book value of property that is 49876
the subject of an exempt facility certificate is changed from the 49877
book value at the time of the original issuance of the 49878
certificate, the amount of exemption available to the owner is 49879
limited to the percentage resulting from the ratio of the 49880
historical cost of the property that is the subject of the exempt 49881
facility certificate over the historic cost of all tangible 49882
personal property and real property of the owner that is located 49883
at the same location as that of the property subject to the exempt 49884
facility certificate. If the result of using this ratio is greater 49885
than the original cost, then acceptable reasons for allowing such 49886
greater cost must be established with supporting documentation in 49887
order to qualify for the exemption above the original cost. 49888

Sec. 5709.26. When an air or noise pollution control exempt 49889
facility certificate is revoked because obtained by fraud or 49890
misrepresentation or modified for the reason stated in division 49891
(C)(1) of section 5709.22 of the Revised Code, all taxes which 49892
that would have been payable had no certificate been issued shall 49893
be assessed with maximum penalties and interest prescribed by law 49894
applicable thereto dating to when the exemption was first allowed. 49895
If the certificate is revoked or modified under division (C)(2), 49896
(3), or (4) of section 5709.22 of the Revised Code, all taxes that 49897

would have been payable had no certificate been issued for those 49898
tax years that are open by operation of law are subject to 49899
assessment. 49900

Sec. 5709.27. In the event of the sale, lease, or other 49901
transfer of an ~~air or noise pollution control~~ exempt facility, not 49902
involving a different location or use, the holder of an ~~air or~~ 49903
~~noise pollution control~~ the exempt facility certificate ~~for such~~ 49904
~~facility may~~ shall transfer the certificate by written instrument 49905
to the person who, except for the transfer of the certificate, 49906
would be obligated to pay taxes on ~~such~~ the facility. The 49907
transferee shall become the holder of the certificate and shall 49908
have all the rights to exemption from taxes ~~which were~~ granted to 49909
the former holder or holders, effective as of the date of transfer 49910
of the facility or the date of transfer of the certificate, 49911
whichever is earlier. The transferee shall promptly give written 49912
notice of the effective date of the transfer, together with a copy 49913
of the instrument of transfer, to the tax commissioner and the 49914
county auditor of the county in which the facility is located. 49915
Upon request, the commissioner may provide the transferee with any 49916
information the commissioner possesses related to the issuance of 49917
the exempt facility certificate. 49918

Sec. 5709.62. (A) In any municipal corporation that is 49919
defined by the United States office of management and budget as a 49920
central city of a metropolitan statistical area, the legislative 49921
authority of the municipal corporation may designate one or more 49922
areas within its municipal corporation as proposed enterprise 49923
zones. Upon designating an area, the legislative authority shall 49924
petition the director of development for certification of the area 49925
as having the characteristics set forth in division (A)(1) of 49926
section 5709.61 of the Revised Code as amended by Substitute 49927
Senate Bill No. 19 of the 120th general assembly. Except as 49928

otherwise provided in division (E) of this section, on and after 49929
July 1, 1994, legislative authorities shall not enter into 49930
agreements under this section unless the legislative authority has 49931
petitioned the director and the director has certified the zone 49932
under this section as amended by that act; however, all agreements 49933
entered into under this section as it existed prior to July 1, 49934
1994, and the incentives granted under those agreements shall 49935
remain in effect for the period agreed to under those agreements. 49936
Within sixty days after receiving such a petition, the director 49937
shall determine whether the area has the characteristics set forth 49938
in division (A)(1) of section 5709.61 of the Revised Code, and 49939
shall forward the findings to the legislative authority of the 49940
municipal corporation. If the director certifies the area as 49941
having those characteristics, and thereby certifies it as a zone, 49942
the legislative authority may enter into an agreement with an 49943
enterprise under division (C) of this section. 49944

(B) Any enterprise that wishes to enter into an agreement 49945
with a municipal corporation under division (C) of this section 49946
shall submit a proposal to the legislative authority of the 49947
municipal corporation on a form prescribed by the director of 49948
development, together with the application fee established under 49949
section 5709.68 of the Revised Code. The form shall require the 49950
following information: 49951

(1) An estimate of the number of new employees whom the 49952
enterprise intends to hire, or of the number of employees whom the 49953
enterprise intends to retain, within the zone at a facility that 49954
is a project site, and an estimate of the amount of payroll of the 49955
enterprise attributable to these employees; 49956

(2) An estimate of the amount to be invested by the 49957
enterprise to establish, expand, renovate, or occupy a facility, 49958
including investment in new buildings, additions or improvements 49959
to existing buildings, machinery, equipment, furniture, fixtures, 49960

and inventory; 49961

(3) A listing of the enterprise's current investment, if any, 49962
in a facility as of the date of the proposal's submission. 49963

The enterprise shall review and update the listings required 49964
under this division to reflect material changes, and any agreement 49965
entered into under division (C) of this section shall set forth 49966
final estimates and listings as of the time the agreement is 49967
entered into. The legislative authority may, on a separate form 49968
and at any time, require any additional information necessary to 49969
determine whether an enterprise is in compliance with an agreement 49970
and to collect the information required to be reported under 49971
section 5709.68 of the Revised Code. 49972

(C) Upon receipt and investigation of a proposal under 49973
division (B) of this section, if the legislative authority finds 49974
that the enterprise submitting the proposal is qualified by 49975
financial responsibility and business experience to create and 49976
preserve employment opportunities in the zone and improve the 49977
economic climate of the municipal corporation, the legislative 49978
authority, on or before ~~June 30, 2004~~ October 15, 2009, may do one 49979
of the following: 49980

(1) Enter into an agreement with the enterprise under which 49981
the enterprise agrees to establish, expand, renovate, or occupy a 49982
facility and hire new employees, or preserve employment 49983
opportunities for existing employees, in return for one or more of 49984
the following incentives: 49985

(a) Exemption for a specified number of years, not to exceed 49986
ten, of a specified portion, up to seventy-five per cent, of the 49987
assessed value of tangible personal property first used in 49988
business at the project site as a result of the agreement. An 49989
exemption granted pursuant to this division applies to inventory 49990
required to be listed pursuant to sections 5711.15 and 5711.16 of 49991

the Revised Code, except that, in the instance of an expansion or 49992
other situations in which an enterprise was in business at the 49993
facility prior to the establishment of the zone, the inventory 49994
that is exempt is that amount or value of inventory in excess of 49995
the amount or value of inventory required to be listed in the 49996
personal property tax return of the enterprise in the return for 49997
the tax year in which the agreement is entered into. 49998

(b) Exemption for a specified number of years, not to exceed 49999
ten, of a specified portion, up to seventy-five per cent, of the 50000
increase in the assessed valuation of real property constituting 50001
the project site subsequent to formal approval of the agreement by 50002
the legislative authority; 50003

(c) Provision for a specified number of years, not to exceed 50004
ten, of any optional services or assistance that the municipal 50005
corporation is authorized to provide with regard to the project 50006
site. 50007

(2) Enter into an agreement under which the enterprise agrees 50008
to remediate an environmentally contaminated facility, to spend an 50009
amount equal to at least two hundred fifty per cent of the true 50010
value in money of the real property of the facility prior to 50011
remediation as determined for the purposes of property taxation to 50012
establish, expand, renovate, or occupy the remediated facility, 50013
and to hire new employees or preserve employment opportunities for 50014
existing employees at the remediated facility, in return for one 50015
or more of the following incentives: 50016

(a) Exemption for a specified number of years, not to exceed 50017
ten, of a specified portion, not to exceed fifty per cent, of the 50018
assessed valuation of the real property of the facility prior to 50019
remediation; 50020

(b) Exemption for a specified number of years, not to exceed 50021
ten, of a specified portion, not to exceed one hundred per cent, 50022

of the increase in the assessed valuation of the real property of 50023
the facility during or after remediation; 50024

(c) The incentive under division (C)(1)(a) of this section, 50025
except that the percentage of the assessed value of such property 50026
exempted from taxation shall not exceed one hundred per cent; 50027

(d) The incentive under division (C)(1)(c) of this section. 50028

(3) Enter into an agreement with an enterprise that plans to 50029
purchase and operate a large manufacturing facility that has 50030
ceased operation or announced its intention to cease operation, in 50031
return for exemption for a specified number of years, not to 50032
exceed ten, of a specified portion, up to one hundred per cent, of 50033
the assessed value of tangible personal property used in business 50034
at the project site as a result of the agreement, or of the 50035
assessed valuation of real property constituting the project site, 50036
or both. 50037

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this 50038
section, the portion of the assessed value of tangible personal 50039
property or of the increase in the assessed valuation of real 50040
property exempted from taxation under those divisions may exceed 50041
seventy-five per cent in any year for which that portion is 50042
exempted if the average percentage exempted for all years in which 50043
the agreement is in effect does not exceed sixty per cent, or if 50044
the board of education of the city, local, or exempted village 50045
school district within the territory of which the property is or 50046
will be located approves a percentage in excess of seventy-five 50047
per cent. For the purpose of obtaining such approval, the 50048
legislative authority shall deliver to the board of education a 50049
notice not later than forty-five days prior to approving the 50050
agreement, excluding Saturdays, Sundays, and legal holidays as 50051
defined in section 1.14 of the Revised Code. The notice shall 50052
state the percentage to be exempted, an estimate of the true value 50053
of the property to be exempted, and the number of years the 50054

property is to be exempted. The board of education, by resolution 50055
adopted by a majority of the board, shall approve or disapprove 50056
the agreement and certify a copy of the resolution to the 50057
legislative authority not later than fourteen days prior to the 50058
date stipulated by the legislative authority as the date upon 50059
which approval of the agreement is to be formally considered by 50060
the legislative authority. The board of education may include in 50061
the resolution conditions under which the board would approve the 50062
agreement, including the execution of an agreement to compensate 50063
the school district under division (B) of section 5709.82 of the 50064
Revised Code. The legislative authority may approve the agreement 50065
at any time after the board of education certifies its resolution 50066
approving the agreement to the legislative authority, or, if the 50067
board approves the agreement conditionally, at any time after the 50068
conditions are agreed to by the board and the legislative 50069
authority. 50070

If a board of education has adopted a resolution waiving its 50071
right to approve agreements and the resolution remains in effect, 50072
approval of an agreement by the board is not required under this 50073
division. If a board of education has adopted a resolution 50074
allowing a legislative authority to deliver the notice required 50075
under this division fewer than forty-five business days prior to 50076
the legislative authority's approval of the agreement, the 50077
legislative authority shall deliver the notice to the board not 50078
later than the number of days prior to such approval as prescribed 50079
by the board in its resolution. If a board of education adopts a 50080
resolution waiving its right to approve agreements or shortening 50081
the notification period, the board shall certify a copy of the 50082
resolution to the legislative authority. If the board of education 50083
rescinds such a resolution, it shall certify notice of the 50084
rescission to the legislative authority. 50085

(2) The legislative authority shall comply with section 50086

5709.83 of the Revised Code unless the board of education has 50087
adopted a resolution under that section waiving its right to 50088
receive such notice. 50089

(E) This division applies to zones certified by the director 50090
of development under this section prior to July 22, 1994. 50091

On or before ~~June 30, 2004~~ October 15, 2009, the legislative 50092
authority that designated a zone to which this division applies 50093
may enter into an agreement with an enterprise if the legislative 50094
authority makes the finding required under that division and 50095
determines that the enterprise satisfies one of the criteria 50096
described in divisions (E)(1) to (5) of this section: 50097

(1) The enterprise currently has no operations in this state 50098
and, subject to approval of the agreement, intends to establish 50099
operations in the zone; 50100

(2) The enterprise currently has operations in this state 50101
and, subject to approval of the agreement, intends to establish 50102
operations at a new location in the zone that would not result in 50103
a reduction in the number of employee positions at any of the 50104
enterprise's other locations in this state; 50105

(3) The enterprise, subject to approval of the agreement, 50106
intends to relocate operations, currently located in another 50107
state, to the zone; 50108

(4) The enterprise, subject to approval of the agreement, 50109
intends to expand operations at an existing site in the zone that 50110
the enterprise currently operates; 50111

(5) The enterprise, subject to approval of the agreement, 50112
intends to relocate operations, currently located in this state, 50113
to the zone, and the director of development has issued a waiver 50114
for the enterprise under division (B) of section 5709.633 of the 50115
Revised Code. 50116

The agreement shall require the enterprise to agree to 50117
establish, expand, renovate, or occupy a facility in the zone and 50118
hire new employees, or preserve employment opportunities for 50119
existing employees, in return for one or more of the incentives 50120
described in division (C) of this section. 50121

(F) All agreements entered into under this section shall be 50122
in the form prescribed under section 5709.631 of the Revised Code. 50123
After an agreement is entered into under this division, if the 50124
legislative authority revokes its designation of a zone, or if the 50125
director of development revokes the zone's certification, any 50126
entitlements granted under the agreement shall continue for the 50127
number of years specified in the agreement. 50128

(G) Except as otherwise provided in this division, an 50129
agreement entered into under this section shall require that the 50130
enterprise pay an annual fee equal to the greater of one per cent 50131
of the dollar value of incentives offered under the agreement or 50132
five hundred dollars; provided, however, that if the value of the 50133
incentives exceeds two hundred fifty thousand dollars, the fee 50134
shall not exceed two thousand five hundred dollars. The fee shall 50135
be payable to the legislative authority once per year for each 50136
year the agreement is effective on the days and in the form 50137
specified in the agreement. Fees paid shall be deposited in a 50138
special fund created for such purpose by the legislative authority 50139
and shall be used by the legislative authority exclusively for the 50140
purpose of complying with section 5709.68 of the Revised Code and 50141
by the tax incentive review council created under section 5709.85 50142
of the Revised Code exclusively for the purposes of performing the 50143
duties prescribed under that section. The legislative authority 50144
may waive or reduce the amount of the fee charged against an 50145
enterprise, but such a waiver or reduction does not affect the 50146
obligations of the legislative authority or the tax incentive 50147
review council to comply with section 5709.68 or 5709.85 of the 50148

Revised Code. 50149

(H) When an agreement is entered into pursuant to this 50150
section, the legislative authority authorizing the agreement shall 50151
forward a copy of the agreement to the director of development and 50152
to the tax commissioner within fifteen days after the agreement is 50153
entered into. If any agreement includes terms not provided for in 50154
section 5709.631 of the Revised Code affecting the revenue of a 50155
city, local, or exempted village school district or causing 50156
revenue to be foregone by the district, including any compensation 50157
to be paid to the school district pursuant to section 5709.82 of 50158
the Revised Code, those terms also shall be forwarded in writing 50159
to the director of development along with the copy of the 50160
agreement forwarded under this division. 50161

(I) After an agreement is entered into, the enterprise shall 50162
file with each personal property tax return required to be filed, 50163
or annual report required to be filed under section 5727.08 of the 50164
Revised Code, while the agreement is in effect, an informational 50165
return, on a form prescribed by the tax commissioner for that 50166
purpose, setting forth separately the property, and related costs 50167
and values, exempted from taxation under the agreement. 50168

(J) Enterprises may agree to give preference to residents of 50169
the zone within which the agreement applies relative to residents 50170
of this state who do not reside in the zone when hiring new 50171
employees under the agreement. 50172

(K) An agreement entered into under this section may include 50173
a provision requiring the enterprise to create one or more 50174
temporary internship positions for students enrolled in a course 50175
of study at a school or other educational institution in the 50176
vicinity, and to create a scholarship or provide another form of 50177
educational financial assistance for students holding such a 50178
position in exchange for the student's commitment to work for the 50179
enterprise at the completion of the internship. 50180

Sec. 5709.63. (A) With the consent of the legislative 50181
authority of each affected municipal corporation or of a board of 50182
township trustees, a board of county commissioners may, in the 50183
manner set forth in section 5709.62 of the Revised Code, designate 50184
one or more areas in one or more municipal corporations or in 50185
unincorporated areas of the county as proposed enterprise zones. A 50186
board of county commissioners may designate no more than one area 50187
within a township, or within adjacent townships, as a proposed 50188
enterprise zone. The board shall petition the director of 50189
development for certification of the area as having the 50190
characteristics set forth in division (A)(1) or (2) of section 50191
5709.61 of the Revised Code as amended by Substitute Senate Bill 50192
No. 19 of the 120th general assembly. Except as otherwise provided 50193
in division (D) of this section, on and after July 1, 1994, boards 50194
of county commissioners shall not enter into agreements under this 50195
section unless the board has petitioned the director and the 50196
director has certified the zone under this section as amended by 50197
that act; however, all agreements entered into under this section 50198
as it existed prior to July 1, 1994, and the incentives granted 50199
under those agreements shall remain in effect for the period 50200
agreed to under those agreements. The director shall make the 50201
determination in the manner provided under section 5709.62 of the 50202
Revised Code. Any enterprise wishing to enter into an agreement 50203
with the board under division (B) or (D) of this section shall 50204
submit a proposal to the board on the form and accompanied by the 50205
application fee prescribed under division (B) of section 5709.62 50206
of the Revised Code. The enterprise shall review and update the 50207
estimates and listings required by the form in the manner required 50208
under that division. The board may, on a separate form and at any 50209
time, require any additional information necessary to determine 50210
whether an enterprise is in compliance with an agreement and to 50211
collect the information required to be reported under section 50212

5709.68 of the Revised Code. 50213

(B) If the board of county commissioners finds that an 50214
enterprise submitting a proposal is qualified by financial 50215
responsibility and business experience to create and preserve 50216
employment opportunities in the zone and to improve the economic 50217
climate of the municipal corporation or municipal corporations or 50218
the unincorporated areas in which the zone is located and to which 50219
the proposal applies, the board, on or before ~~June 30, 2004~~ 50220
October 15, 2009, and with the consent of the legislative 50221
authority of each affected municipal corporation or of the board 50222
of township trustees may do either of the following: 50223

(1) Enter into an agreement with the enterprise under which 50224
the enterprise agrees to establish, expand, renovate, or occupy a 50225
facility in the zone and hire new employees, or preserve 50226
employment opportunities for existing employees, in return for the 50227
following incentives: 50228

(a) When the facility is located in a municipal corporation, 50229
the board may enter into an agreement for one or more of the 50230
incentives provided in division (C) of section 5709.62 of the 50231
Revised Code, subject to division (D) of that section; 50232

(b) When the facility is located in an unincorporated area, 50233
the board may enter into an agreement for one or more of the 50234
following incentives: 50235

(i) Exemption for a specified number of years, not to exceed 50236
ten, of a specified portion, up to sixty per cent, of the assessed 50237
value of tangible personal property first used in business at a 50238
project site as a result of the agreement. An exemption granted 50239
pursuant to this division applies to inventory required to be 50240
listed pursuant to sections 5711.15 and 5711.16 of the Revised 50241
Code, except, in the instance of an expansion or other situations 50242
in which an enterprise was in business at the facility prior to 50243

the establishment of the zone, the inventory that is exempt is 50244
that amount or value of inventory in excess of the amount or value 50245
of inventory required to be listed in the personal property tax 50246
return of the enterprise in the return for the tax year in which 50247
the agreement is entered into. 50248

(ii) Exemption for a specified number of years, not to exceed 50249
ten, of a specified portion, up to sixty per cent, of the increase 50250
in the assessed valuation of real property constituting the 50251
project site subsequent to formal approval of the agreement by the 50252
board; 50253

(iii) Provision for a specified number of years, not to 50254
exceed ten, of any optional services or assistance the board is 50255
authorized to provide with regard to the project site; 50256

(iv) The incentive described in division (C)(2) of section 50257
5709.62 of the Revised Code. 50258

(2) Enter into an agreement with an enterprise that plans to 50259
purchase and operate a large manufacturing facility that has 50260
ceased operation or has announced its intention to cease 50261
operation, in return for exemption for a specified number of 50262
years, not to exceed ten, of a specified portion, up to one 50263
hundred per cent, of tangible personal property used in business 50264
at the project site as a result of the agreement, or of real 50265
property constituting the project site, or both. 50266

(C)(1) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 50267
this section, the portion of the assessed value of tangible 50268
personal property or of the increase in the assessed valuation of 50269
real property exempted from taxation under those divisions may 50270
exceed sixty per cent in any year for which that portion is 50271
exempted if the average percentage exempted for all years in which 50272
the agreement is in effect does not exceed fifty per cent, or if 50273
the board of education of the city, local, or exempted village 50274

school district within the territory of which the property is or 50275
will be located approves a percentage in excess of sixty per cent. 50276
For the purpose of obtaining such approval, the board of 50277
commissioners shall deliver to the board of education a notice not 50278
later than forty-five days prior to approving the agreement, 50279
excluding Saturdays, Sundays, and legal holidays as defined in 50280
section 1.14 of the Revised Code. The notice shall state the 50281
percentage to be exempted, an estimate of the true value of the 50282
property to be exempted, and the number of years the property is 50283
to be exempted. The board of education, by resolution adopted by a 50284
majority of the board, shall approve or disapprove the agreement 50285
and certify a copy of the resolution to the board of commissioners 50286
not later than fourteen days prior to the date stipulated by the 50287
board of commissioners as the date upon which approval of the 50288
agreement is to be formally considered by the board of 50289
commissioners. The board of education may include in the 50290
resolution conditions under which the board would approve the 50291
agreement, including the execution of an agreement to compensate 50292
the school district under division (B) of section 5709.82 of the 50293
Revised Code. The board of county commissioners may approve the 50294
agreement at any time after the board of education certifies its 50295
resolution approving the agreement to the board of county 50296
commissioners, or, if the board of education approves the 50297
agreement conditionally, at any time after the conditions are 50298
agreed to by the board of education and the board of county 50299
commissioners. 50300

If a board of education has adopted a resolution waiving its 50301
right to approve agreements and the resolution remains in effect, 50302
approval of an agreement by the board of education is not required 50303
under division (C) of this section. If a board of education has 50304
adopted a resolution allowing a board of county commissioners to 50305
deliver the notice required under this division fewer than 50306
forty-five business days prior to approval of the agreement by the 50307

board of county commissioners, the board of county commissioners 50308
shall deliver the notice to the board of education not later than 50309
the number of days prior to such approval as prescribed by the 50310
board of education in its resolution. If a board of education 50311
adopts a resolution waiving its right to approve agreements or 50312
shortening the notification period, the board of education shall 50313
certify a copy of the resolution to the board of county 50314
commissioners. If the board of education rescinds such a 50315
resolution, it shall certify notice of the rescission to the board 50316
of county commissioners. 50317

(2) The board of county commissioners shall comply with 50318
section 5709.83 of the Revised Code unless the board of education 50319
has adopted a resolution under that section waiving its right to 50320
receive such notice. 50321

(D) This division applies to zones certified by the director 50322
of development under this section prior to July 22, 1994. 50323

On or before ~~June 30, 2004~~ October 15, 2009, and with the 50324
consent of the legislative authority of each affected municipal 50325
corporation or board of township trustees of each affected 50326
township, the board of commissioners that designated a zone to 50327
which this division applies may enter into an agreement with an 50328
enterprise if the board makes the finding required under that 50329
division and determines that the enterprise satisfies one of the 50330
criteria described in divisions (D)(1) to (5) of this section: 50331

(1) The enterprise currently has no operations in this state 50332
and, subject to approval of the agreement, intends to establish 50333
operations in the zone; 50334

(2) The enterprise currently has operations in this state 50335
and, subject to approval of the agreement, intends to establish 50336
operations at a new location in the zone that would not result in 50337
a reduction in the number of employee positions at any of the 50338

enterprise's other locations in this state; 50339

(3) The enterprise, subject to approval of the agreement, 50340
intends to relocate operations, currently located in another 50341
state, to the zone; 50342

(4) The enterprise, subject to approval of the agreement, 50343
intends to expand operations at an existing site in the zone that 50344
the enterprise currently operates; 50345

(5) The enterprise, subject to approval of the agreement, 50346
intends to relocate operations, currently located in this state, 50347
to the zone, and the director of development has issued a waiver 50348
for the enterprise under division (B) of section 5709.633 of the 50349
Revised Code. 50350

The agreement shall require the enterprise to agree to 50351
establish, expand, renovate, or occupy a facility in the zone and 50352
hire new employees, or preserve employment opportunities for 50353
existing employees, in return for one or more of the incentives 50354
described in division (B) of this section. 50355

(E) All agreements entered into under this section shall be 50356
in the form prescribed under section 5709.631 of the Revised Code. 50357
After an agreement under this section is entered into, if the 50358
board of county commissioners revokes its designation of the zone, 50359
or if the director of development revokes the zone's 50360
certification, any entitlements granted under the agreement shall 50361
continue for the number of years specified in the agreement. 50362

(F) Except as otherwise provided in this paragraph, an 50363
agreement entered into under this section shall require that the 50364
enterprise pay an annual fee equal to the greater of one per cent 50365
of the dollar value of incentives offered under the agreement or 50366
five hundred dollars; provided, however, that if the value of the 50367
incentives exceeds two hundred fifty thousand dollars, the fee 50368
shall not exceed two thousand five hundred dollars. The fee shall 50369

be payable to the board of commissioners once per year for each 50370
year the agreement is effective on the days and in the form 50371
specified in the agreement. Fees paid shall be deposited in a 50372
special fund created for such purpose by the board and shall be 50373
used by the board exclusively for the purpose of complying with 50374
section 5709.68 of the Revised Code and by the tax incentive 50375
review council created under section 5709.85 of the Revised Code 50376
exclusively for the purposes of performing the duties prescribed 50377
under that section. The board may waive or reduce the amount of 50378
the fee charged against an enterprise, but such waiver or 50379
reduction does not affect the obligations of the board or the tax 50380
incentive review council to comply with section 5709.68 or 5709.85 50381
of the Revised Code, respectively. 50382

(G) With the approval of the legislative authority of a 50383
municipal corporation or the board of township trustees of a 50384
township in which a zone is designated under division (A) of this 50385
section, the board of county commissioners may delegate to that 50386
legislative authority or board any powers and duties of the board 50387
to negotiate and administer agreements with regard to that zone 50388
under this section. 50389

(H) When an agreement is entered into pursuant to this 50390
section, the legislative authority authorizing the agreement shall 50391
forward a copy of the agreement to the director of development and 50392
to the tax commissioner within fifteen days after the agreement is 50393
entered into. If any agreement includes terms not provided for in 50394
section 5709.631 of the Revised Code affecting the revenue of a 50395
city, local, or exempted village school district or causing 50396
revenue to be foregone by the district, including any compensation 50397
to be paid to the school district pursuant to section 5709.82 of 50398
the Revised Code, those terms also shall be forwarded in writing 50399
to the director of development along with the copy of the 50400
agreement forwarded under this division. 50401

(I) After an agreement is entered into, the enterprise shall 50402
file with each personal property tax return required to be filed, 50403
or annual report that is required to be filed under section 50404
5727.08 of the Revised Code, while the agreement is in effect, an 50405
informational return, on a form prescribed by the tax commissioner 50406
for that purpose, setting forth separately the property, and 50407
related costs and values, exempted from taxation under the 50408
agreement. 50409

(J) Enterprises may agree to give preference to residents of 50410
the zone within which the agreement applies relative to residents 50411
of this state who do not reside in the zone when hiring new 50412
employees under the agreement. 50413

(K) An agreement entered into under this section may include 50414
a provision requiring the enterprise to create one or more 50415
temporary internship positions for students enrolled in a course 50416
of study at a school or other educational institution in the 50417
vicinity, and to create a scholarship or provide another form of 50418
educational financial assistance for students holding such a 50419
position in exchange for the student's commitment to work for the 50420
enterprise at the completion of the internship. 50421

Sec. 5709.632. (A)(1) The legislative authority of a 50422
municipal corporation defined by the United States office of 50423
management and budget as a central city of a metropolitan 50424
statistical area may, in the manner set forth in section 5709.62 50425
of the Revised Code, designate one or more areas in the municipal 50426
corporation as a proposed enterprise zone. 50427

(2) With the consent of the legislative authority of each 50428
affected municipal corporation or of a board of township trustees, 50429
a board of county commissioners may, in the manner set forth in 50430
section 5709.62 of the Revised Code, designate one or more areas 50431
in one or more municipal corporations or in unincorporated areas 50432

of the county as proposed urban jobs and enterprise zones, except 50433
that a board of county commissioners may designate no more than 50434
one area within a township, or within adjacent townships, as a 50435
proposed urban jobs and enterprise zone. 50436

(3) The legislative authority or board of county 50437
commissioners may petition the director of development for 50438
certification of the area as having the characteristics set forth 50439
in division (A)(3) of section 5709.61 of the Revised Code. Within 50440
sixty days after receiving such a petition, the director shall 50441
determine whether the area has the characteristics set forth in 50442
that division and forward the findings to the legislative 50443
authority or board of county commissioners. If the director 50444
certifies the area as having those characteristics and thereby 50445
certifies it as a zone, the legislative authority or board may 50446
enter into agreements with enterprises under division (B) of this 50447
section. Any enterprise wishing to enter into an agreement with a 50448
legislative authority or board of commissioners under this section 50449
and satisfying one of the criteria described in divisions (B)(1) 50450
to (5) of this section shall submit a proposal to the legislative 50451
authority or board on the form prescribed under division (B) of 50452
section 5709.62 of the Revised Code and shall review and update 50453
the estimates and listings required by the form in the manner 50454
required under that division. The legislative authority or board 50455
may, on a separate form and at any time, require any additional 50456
information necessary to determine whether an enterprise is in 50457
compliance with an agreement and to collect the information 50458
required to be reported under section 5709.68 of the Revised Code. 50459

(B) Prior to entering into an agreement with an enterprise, 50460
the legislative authority or board of county commissioners shall 50461
determine whether the enterprise submitting the proposal is 50462
qualified by financial responsibility and business experience to 50463
create and preserve employment opportunities in the zone and to 50464

improve the economic climate of the municipal corporation or 50465
municipal corporations or the unincorporated areas in which the 50466
zone is located and to which the proposal applies, and whether the 50467
enterprise satisfies one of the following criteria: 50468

(1) The enterprise currently has no operations in this state 50469
and, subject to approval of the agreement, intends to establish 50470
operations in the zone; 50471

(2) The enterprise currently has operations in this state 50472
and, subject to approval of the agreement, intends to establish 50473
operations at a new location in the zone that would not result in 50474
a reduction in the number of employee positions at any of the 50475
enterprise's other locations in this state; 50476

(3) The enterprise, subject to approval of the agreement, 50477
intends to relocate operations, currently located in another 50478
state, to the zone; 50479

(4) The enterprise, subject to approval of the agreement, 50480
intends to expand operations at an existing site in the zone that 50481
the enterprise currently operates; 50482

(5) The enterprise, subject to approval of the agreement, 50483
intends to relocate operations, currently located in this state, 50484
to the zone, and the director of development has issued a waiver 50485
for the enterprise under division (B) of section 5709.633 of the 50486
Revised Code. 50487

(C) If the legislative authority or board determines that the 50488
enterprise is so qualified and satisfies one of the criteria 50489
described in divisions (B)(1) to (5) of this section, the 50490
legislative authority or board may, after complying with section 50491
5709.83 of the Revised Code and on or before ~~June 30, 2004~~ October
15, 2009, and, in the case of a board of commissioners, with the 50492
consent of the legislative authority of each affected municipal 50493
corporation or of the board of township trustees, enter into an 50494
corporation or of the board of township trustees, enter into an 50495

agreement with the enterprise under which the enterprise agrees to 50496
establish, expand, renovate, or occupy a facility in the zone and 50497
hire new employees, or preserve employment opportunities for 50498
existing employees, in return for the following incentives: 50499

(1) When the facility is located in a municipal corporation, 50500
a legislative authority or board of commissioners may enter into 50501
an agreement for one or more of the incentives provided in 50502
division (C) of section 5709.62 of the Revised Code, subject to 50503
division (D) of that section; 50504

(2) When the facility is located in an unincorporated area, a 50505
board of commissioners may enter into an agreement for one or more 50506
of the incentives provided in divisions (B)(1)(b), (B)(2), and 50507
(B)(3) of section 5709.63 of the Revised Code, subject to division 50508
(C) of that section. 50509

(D) All agreements entered into under this section shall be 50510
in the form prescribed under section 5709.631 of the Revised Code. 50511
After an agreement under this section is entered into, if the 50512
legislative authority or board of county commissioners revokes its 50513
designation of the zone, or if the director of development revokes 50514
the zone's certification, any entitlements granted under the 50515
agreement shall continue for the number of years specified in the 50516
agreement. 50517

(E) Except as otherwise provided in this division, an 50518
agreement entered into under this section shall require that the 50519
enterprise pay an annual fee equal to the greater of one per cent 50520
of the dollar value of incentives offered under the agreement or 50521
five hundred dollars; provided, however, that if the value of the 50522
incentives exceeds two hundred fifty thousand dollars, the fee 50523
shall not exceed two thousand five hundred dollars. The fee shall 50524
be payable to the legislative authority or board of commissioners 50525
once per year for each year the agreement is effective on the days 50526
and in the form specified in the agreement. Fees paid shall be 50527

deposited in a special fund created for such purpose by the 50528
legislative authority or board and shall be used by the 50529
legislative authority or board exclusively for the purpose of 50530
complying with section 5709.68 of the Revised Code and by the tax 50531
incentive review council created under section 5709.85 of the 50532
Revised Code exclusively for the purposes of performing the duties 50533
prescribed under that section. The legislative authority or board 50534
may waive or reduce the amount of the fee charged against an 50535
enterprise, but such waiver or reduction does not affect the 50536
obligations of the legislative authority or board or the tax 50537
incentive review council to comply with section 5709.68 or 5709.85 50538
of the Revised Code, respectively. 50539

(F) With the approval of the legislative authority of a 50540
municipal corporation or the board of township trustees of a 50541
township in which a zone is designated under division (A)(2) of 50542
this section, the board of county commissioners may delegate to 50543
that legislative authority or board any powers and duties of the 50544
board to negotiate and administer agreements with regard to that 50545
zone under this section. 50546

(G) When an agreement is entered into pursuant to this 50547
section, the legislative authority or board of commissioners 50548
authorizing the agreement shall forward a copy of the agreement to 50549
the director of development and to the tax commissioner within 50550
fifteen days after the agreement is entered into. If any agreement 50551
includes terms not provided for in section 5709.631 of the Revised 50552
Code affecting the revenue of a city, local, or exempted village 50553
school district or causing revenue to be foregone by the district, 50554
including any compensation to be paid to the school district 50555
pursuant to section 5709.82 of the Revised Code, those terms also 50556
shall be forwarded in writing to the director of development along 50557
with the copy of the agreement forwarded under this division. 50558

(H) After an agreement is entered into, the enterprise shall 50559

file with each personal property tax return required to be filed 50560
while the agreement is in effect, an informational return, on a 50561
form prescribed by the tax commissioner for that purpose, setting 50562
forth separately the property, and related costs and values, 50563
exempted from taxation under the agreement. 50564

(I) An agreement entered into under this section may include 50565
a provision requiring the enterprise to create one or more 50566
temporary internship positions for students enrolled in a course 50567
of study at a school or other educational institution in the 50568
vicinity, and to create a scholarship or provide another form of 50569
educational financial assistance for students holding such a 50570
position in exchange for the student's commitment to work for the 50571
enterprise at the completion of the internship. 50572

Sec. 5709.64. (A) If an enterprise has been granted an 50573
incentive for the current calendar year under an agreement entered 50574
pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised 50575
Code, it may apply, on or before the thirtieth day of April of 50576
that year, to the director of development, on a form prescribed by 50577
the director, for a tax incentive qualification certificate. The 50578
enterprise qualifies for an initial certificate if, on or before 50579
the last day of the calendar year immediately preceding that in 50580
which application is made, it satisfies all of the following 50581
requirements: 50582

(1) The enterprise has established, expanded, renovated, or 50583
occupied a facility pursuant to the agreement under section 50584
5709.62, 5709.63, or 5709.632 of the Revised Code. 50585

(2) The enterprise has hired new employees to fill nonretail 50586
positions at the facility, at least twenty-five per cent of whom 50587
at the time they were employed were at least one of the following: 50588

(a) Unemployed persons who had resided at least six months in 50589
the county in which the enterprise's project site is located; 50590

(b) JPTA eligible employees who had resided at least six months in the county in which the enterprise's project site is located; 50591
50592
50593

(c) Participants of the Ohio works first program under Chapter 5107. of the Revised Code or the prevention, retention, and contingency program under Chapter 5108. of the Revised Code or recipients of general assistance under former Chapter 5113. of the Revised Code, ~~disability~~ financial assistance under Chapter 5115. of the Revised Code, or unemployment compensation benefits who had resided at least six months in the county in which the enterprise's project site is located; 50594
50595
50596
50597
50598
50599
50600
50601

(d) Handicapped persons, as defined under division (A) of section 3304.11 of the Revised Code, who had resided at least six months in the county in which the enterprise's project site is located; 50602
50603
50604
50605

(e) Residents for at least one year of a zone located in the county in which the enterprise's project site is located. 50606
50607

The director of development shall, by rule, establish criteria for determining what constitutes a nonretail position at a facility. 50608
50609
50610

(3) The average number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the calendar year in which application is made exceeds the maximum number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the first year the enterprise satisfies the requirements set forth in divisions (A)(1) and (2) of this section. If the enterprise is engaged in a business which, because of its seasonal nature, customarily enables the enterprise to operate at full capacity only during regularly recurring periods of the year, the average number of positions attributable to the 50611
50612
50613
50614
50615
50616
50617
50618
50619
50620
50621

enterprise in the municipal corporation during each period of the 50622
calendar year immediately preceding the calendar year in which 50623
application is made must exceed only the maximum number of 50624
positions attributable to the enterprise in each corresponding 50625
period of the calendar year immediately preceding the first year 50626
the enterprise satisfies the requirements of divisions (A)(1) and 50627
(2) of this section. The director of development shall, by rule, 50628
prescribe methods for determining whether an enterprise is engaged 50629
in a seasonal business and for determining the length of the 50630
corresponding periods to be compared. 50631

(4) The enterprise has not closed or reduced employment at 50632
any place of business in the state for the primary purpose of 50633
establishing, expanding, renovating, or occupying a facility. The 50634
legislative authority of any municipal corporation or the board of 50635
county commissioners of any county that concludes that an 50636
enterprise has closed or reduced employment at a place of business 50637
in that municipal corporation or county for the primary purpose of 50638
establishing, expanding, renovating, or occupying a facility in a 50639
zone may appeal to the director to determine whether the 50640
enterprise has done so. Upon receiving such an appeal, the 50641
director shall investigate the allegations and make such a 50642
determination before issuing an initial or renewal tax incentive 50643
qualification certificate under this section. 50644

Within sixty days after receiving an application under this 50645
division, the director shall review, investigate, and verify the 50646
application and determine whether the enterprise qualifies for a 50647
certificate. The application shall include an affidavit executed 50648
by the applicant verifying that the enterprise satisfies the 50649
requirements of division (A)(2) of this section, and shall contain 50650
such information and documents as the director requires, by rule, 50651
to ascertain whether the enterprise qualifies for a certificate. 50652
If the director finds the enterprise qualified, the director shall 50653

issue a tax incentive qualification certificate, which shall bear 50654
as its date of issuance the thirtieth day of June of the year of 50655
application, and shall state that the applicant is entitled to 50656
receive, for the taxable year that includes the certificate's date 50657
of issuance, the tax incentives provided under section 5709.65 of 50658
the Revised Code with regard to the facility to which the 50659
certificate applies. If an enterprise is issued an initial 50660
certificate, it may apply, on or before the thirtieth day of April 50661
of each succeeding calendar year for which it has been granted an 50662
incentive under an agreement entered pursuant to section 5709.62, 50663
5709.63, or 5709.632 of the Revised Code, for a renewal 50664
certificate. Subsequent to its initial certification, the 50665
enterprise qualifies for up to three successive renewal 50666
certificates if, on or before the last day of the calendar year 50667
immediately preceding that in which the application is made, it 50668
satisfies all the requirements of divisions (A)(1) to (4) of this 50669
section, and neither the zone's designation nor the zone's 50670
certification has been revoked prior to the fifteenth day of June 50671
of the year in which the application is made. The application 50672
shall include an affidavit executed by the applicant verifying 50673
that the enterprise satisfies the requirements of division (A)(2) 50674
of this section. An enterprise with ten or more supervisory 50675
personnel at the facility to which a certificate applies qualifies 50676
for any subsequent renewal certificates only if it meets all of 50677
the foregoing requirements and, in addition, at least ten per cent 50678
of those supervisory personnel are employees who, when first hired 50679
by the enterprise, satisfied at least one of the criteria 50680
specified in divisions (A)(2)(a) to (e) of this section. If the 50681
enterprise qualifies, a renewal certificate shall be issued 50682
bearing as its date of issuance the thirtieth day of June of the 50683
year of application. The director shall send copies of the initial 50684
certificate, and each renewal certificate, by certified mail, to 50685
the enterprise, the tax commissioner, the board of county 50686

commissioners, and the chief executive of the municipal 50687
corporation in which the facility to which the certificate applies 50688
is located. 50689

(B) If the director determines that an enterprise is not 50690
qualified for an initial or renewal tax incentive qualification 50691
certificate, the director shall send notice of this determination, 50692
specifying the reasons for it, by certified mail, to the 50693
applicant, the tax commissioner, the board of county 50694
commissioners, and the chief executive of the municipal 50695
corporation in which the facility to which the certificate would 50696
have applied is located. Within thirty days after receiving such a 50697
notice, an enterprise may request, in writing, a hearing before 50698
the director for the purpose of reviewing the application and the 50699
reasons for the determination. Within sixty days after receiving a 50700
request for a hearing, the director shall afford one and, within 50701
thirty days after the hearing, shall issue a redetermination of 50702
the enterprise's qualification for a certificate. If the 50703
enterprise is found to be qualified, the director shall proceed in 50704
the manner provided under division (A) of this section. If the 50705
enterprise is found to be unqualified, the director shall send 50706
notice of this finding, by certified mail, to the applicant, the 50707
tax commissioner, the board of county commissioners, and the chief 50708
executive of the municipal corporation in which the facility to 50709
which the certificate would have applied is located. The 50710
director's redetermination that an enterprise is unqualified may 50711
be appealed to the board of tax appeals in the manner provided 50712
under section 5717.02 of the Revised Code. 50713

Sec. 5709.67. (A) Except as otherwise provided in sections 50714
5709.61 to 5709.69 of the Revised Code, the director of 50715
development shall administer those sections and shall adopt such 50716
rules as are necessary to ensure that no zone is certified or 50717
remains certified unless it meets any applicable requirements of 50718

division (A) of section 5709.61 of the Revised Code, ~~and to~~ 50719
~~determine the number of positions attributable to an enterprise~~ 50720
~~for the purposes of division (A)(3) of section 5709.64 of the~~ 50721
~~Revised Code.~~ The director shall assign to each zone currently 50722
certified a unique designation by which the zone shall be 50723
identified for purposes of administering sections 5709.61 to 50724
5709.69 of the Revised Code. The tax commissioner shall administer 50725
all other tax incentives provided under sections 5709.61 to 50726
5709.69 of the Revised Code and shall adopt such rules as are 50727
necessary to carry out that duty. No tax incentive qualification 50728
certificate or employee tax credit certificate shall be issued or 50729
remain in effect unless the enterprise applying for or holding the 50730
certificate complies with all such rules. The director of job and 50731
family services shall administer the incentive provided under 50732
division (B)(1) of former section 5709.66 of the Revised Code and 50733
shall adopt such rules as are necessary to carry out that duty. No 50734
extension of benefits certificate shall be issued or remain in 50735
effect unless the enterprise applying for or holding the 50736
certificate complies with all such rules. 50737

(B) Not later than the first day of August each year, the 50738
director of development shall report to the general assembly on 50739
all of the following for the preceding calendar year: 50740

(1) The cost to the state of the tax and other incentives 50741
provided under sections 5709.61 to 5709.69 of the Revised Code; 50742

(2) The number of tax incentive qualification certificates, 50743
employee tax credit certificates, and extension of benefits 50744
certificates issued; 50745

(3) The names of the municipal corporations and counties that 50746
have entered agreements under sections 5709.62, 5709.63, and 50747
5709.632 of the Revised Code; 50748

(4) The number of new employees hired as a result of the tax 50749

and other incentives provided under sections 5709.61 to 5709.69 of 50750
the Revised Code; 50751

(5) Information on agreement terms concerning school district 50752
revenue that are not provided for in section 5709.631 of the 50753
Revised Code and that are forwarded to the director under division 50754
(H) of section 5709.62, division (H) of section 5709.63, or 50755
division (G) of section 5709.632 of the Revised Code. 50756

The report shall include a finding by the director as to 50757
whether the incentives provided under sections 5709.61 to 5709.69 50758
of the Revised Code have resulted in the creation of more 50759
positions in the state than would have been created without the 50760
incentives. The director shall send a copy of the report to each 50761
member of the general assembly and to the director of the 50762
legislative service commission. 50763

(C) All forms used in connection with the administration of 50764
sections 5709.61 to 5709.69 of the Revised Code, except forms 50765
administered directly by the tax commissioner, by the director of 50766
job and family services, or by a county or municipal corporation, 50767
are subject to review and approval by the state forms management 50768
control center under sections 125.91 to 125.98 of the Revised 50769
Code. 50770

Sec. 5709.84. (A) As used in this section: 50771

(1) "Local railroad operations" means the provision of 50772
railroad service by a qualified railroad company within the 50773
territorial jurisdiction of a county, township, or municipal 50774
corporation, which railroad service replaces railroad service that 50775
was discontinued in the territorial jurisdiction of the county, 50776
township, or municipal corporation on or after January 1, 1980. 50777

(2) "Qualified railroad company" means a railroad company as 50778
defined in division (D)~~(9)~~(8) of section 5727.01 of the Revised 50779

Code that is formed by a person or governmental entity to provide 50780
local railroad operations. 50781

(B) The legislative authority of a county, township, or 50782
municipal corporation, by resolution or ordinance, may declare any 50783
of the following as being used for a public purpose: 50784

(1) Real and tangible personal property owned by the county, 50785
township, or municipal corporation that is leased or otherwise 50786
made available to a qualified railroad company for use in local 50787
railroad operations; 50788

(2) Real and tangible personal property owned by any other 50789
public or any private entity that is leased or otherwise made 50790
available to a qualified railroad company for use in local 50791
railroad operations; 50792

(3) Real and tangible personal property owned by a qualified 50793
railroad company that is used in local railroad operations. 50794

Real and tangible personal property declared as being used 50795
for a public purpose under division (B)(1), (2), or (3) of this 50796
section is exempt from taxation for a period, not to exceed ten 50797
years, specified in the resolution or ordinance declaring the 50798
property as being used for a public purpose and commencing on the 50799
effective date of the resolution or ordinance. The exemption 50800
applies to the property only in the proportion it is used in local 50801
railroad operations within the territorial jurisdiction of the 50802
county, township, or municipal corporation that declared it as 50803
being used for a public purpose. 50804

The legislative authority shall not take formal action to 50805
adopt a resolution or an ordinance that grants a tax exemption 50806
under this section until section 5709.83 of the Revised Code has 50807
been complied with. Upon adopting the resolution or ordinance, the 50808
legislative authority shall transmit a certified copy to the tax 50809
commissioner, the county auditor, and the county treasurer. 50810

(C) At any time during the period of an exemption, the legislative authority, without prior announcement and at such times as it considers appropriate or necessary, may inspect the real and tangible personal property so exempted and the financial records and business activities of the qualified railroad company receiving the exemption to verify that the property so exempted is in use for local railroad operations. A qualified railroad company receiving an exemption shall cooperate with the legislative authority in an inspection, and shall provide any information relevant to the exemption that is requested by the legislative authority.

If the legislative authority determines that exempted property is not in use for local railroad operations, or if a qualified railroad company interferes with an inspection or fails to answer a request for information, the legislative authority, by resolution or ordinance, may suspend its declaration under division (B) of this section until it verifies that the qualified railroad company is using the property for local railroad operations, or may revoke the declaration. The legislative authority shall transmit a certified copy of a resolution or ordinance suspending or revoking its declaration to the tax commissioner, the county auditor, and the county treasurer. The county auditor and county treasurer shall place the property on the tax list and duplicate for the tax year in which the resolution or ordinance of suspension or revocation was adopted. The qualified railroad company may appeal the suspension or revocation to the court of common pleas in the county in which the exemption is granted.

Sec. 5711.02. Except as otherwise provided by section 5711.13 of the Revised Code, each year, beginning in tax year 2004, each taxpayer having taxable personal property with an aggregate

taxable value in excess of ten thousand dollars shall make a 50842
return, ~~annually~~, to the county auditor of each county in which 50843
any taxable property, ~~which~~ the taxpayer must return, is required 50844
by this chapter to be listed ~~and~~. The taxpayer shall truly and 50845
correctly list ~~therein~~ on the return all taxable property so 50846
required to be listed, including property exempt under division 50847
(C)(3) of section 5709.01 of the Revised Code. Such returns shall 50848
be made on the blanks prescribed by the tax commissioner, which 50849
the county auditor shall supply at ~~his~~ the auditor's office along 50850
with blanks of the kind required for the county supplemental 50851
return required by section 5711.131 of the Revised Code ~~for the~~ 50852
~~use of taxpayers~~. The county auditor shall mail or distribute such 50853
blanks prior to the fifteenth day of February to all persons known 50854
to ~~him~~ the auditor to be taxpayers and to all persons to whom the 50855
commissioner may direct blanks of either type to be mailed or 50856
distributed, ~~and he~~. The county auditor may place listing and 50857
county supplemental blanks at convenient places in ~~his~~ the county. 50858
The failure of a taxpayer to receive or procure blanks shall not 50859
excuse ~~him~~ the taxpayer from making any return or county 50860
supplemental return. The individual required to make the return 50861
shall furnish all statements and documents, give all information 50862
required, answer all questions asked on the required blanks, and 50863
subscribe to the truth and correctness of all matters contained 50864
therein. 50865

Sec. 5711.13. A Beginning in tax year 2004, each taxpayer 50866
having taxable property with an aggregate taxable value in excess 50867
of ten thousand dollars and required to be listed in more than one 50868
county shall make a combined return to the tax commissioner 50869
listing all its taxable property in this state, in conformity with 50870
sections 5711.01 to 5711.36 of the Revised Code, including 50871
property exempt under division (C)(3) of section 5709.01 of the 50872
Revised Code, but ~~it~~ the taxpayer shall not assign ~~its~~ property of 50873

the kinds mentioned in section 5709.02 of the Revised Code to any 50874
particular taxing district or county. The tax commissioner shall 50875
assess the personal property of such taxpayer in the several 50876
taxing districts in which it is required ~~by~~ to be assessed under 50877
sections 5711.01 to 5711.36 of the Revised Code, ~~to be assessed,~~ 50878
and shall issue assessment certificates therefor to the proper 50879
county auditors at the time and in the manner required by section 50880
5711.25 of the Revised Code. All other property of such taxpayer 50881
required to be so listed shall be entered on the intangible 50882
property tax list in the office of the treasurer of state, and 50883
~~taxed~~ shall be subject to taxation under section 5707.03 of the 50884
Revised Code. The commissioner shall assess all other property of 50885
each such taxpayer and, on or before the second Monday of August 50886
annually, shall certify the total value or amount of each kind 50887
thereof to the treasurer of state, who shall enter the value or 50888
amount on the intangible property tax list in ~~his~~ the treasurer of 50889
state's office in the manner provided in sections 5725.01 to 50890
5725.26 of the Revised Code. Sections 5711.01 to 5711.36 of the 50891
Revised Code shall apply to and govern such taxpayer, its proper 50892
officers and representatives, the commissioner, and the county 50893
auditor as to all proceedings in the assessment of the property of 50894
such taxpayer. 50895

Sec. 5711.22. (A) Deposits not taxed at the source shall be 50896
listed and assessed at their amount in dollars on the day they are 50897
required to be listed. Moneys shall be listed and assessed at the 50898
amount thereof in dollars on hand on the day that they are 50899
required to be listed. In listing investments, the amount of the 50900
income yield of each for the calendar year next preceding the date 50901
of listing shall, except as otherwise provided in this chapter, be 50902
stated in dollars and cents and the assessment thereof shall be at 50903
the amount of such income yield; but any property defined as 50904
investments in either division (A) or (B) of section 5701.06 of 50905

the Revised Code that has not been outstanding for the full 50906
calendar year next preceding the date of listing, except shares of 50907
stock of like kind as other shares of the same corporation 50908
outstanding for the full calendar year next preceding the date of 50909
listing, or which has yielded no income during such calendar year 50910
shall be listed and assessed as unproductive investments, at their 50911
true value in money on the day that such investments are required 50912
to be listed. 50913

Credits and other taxable intangibles shall be listed and 50914
assessed at their true value in money on the day as of which the 50915
same are required to be listed. 50916

Shares of stock of a bank holding company, as defined in 50917
Title 12 U.S.C.A., section 1841, that are required to be listed 50918
for taxation under this division and upon which dividends were 50919
paid during the year of their issuance, which dividends are 50920
subject to taxation under the provisions of Chapter 5747. of the 50921
Revised Code, shall be exempt from the intangibles tax for the 50922
year immediately succeeding their issuance. If such shares bear 50923
dividends the first calendar year after their issuance, which 50924
dividends are subject to taxation under the provisions of Chapter 50925
5747. of the Revised Code, it shall be deemed that the 50926
nondelinquent intangible property tax pursuant to division (A) of 50927
section 5707.04 of the Revised Code was paid on those dividends 50928
paid that first calendar year after the issuance of the shares. 50929

(B)(1) Boilers, machinery, equipment, and personal property 50930
the true value of which is determined under division (B) of 50931
section 5711.21 of the Revised Code shall be listed and assessed 50932
at an amount equal to the sum of the products determined under 50933
divisions (B)(1)(a), (b), and (c) of this section. 50934

(a) Multiply the portion of the true value determined under 50935
division (B)(1) of section 5711.21 of the Revised Code by the 50936
assessment rate in division (F) of this section; 50937

(b) Multiply the portion of the true value determined under 50938
division (B)(2) of section 5711.21 of the Revised Code by the 50939
assessment rate in section 5727.111 of the Revised Code that is 50940
applicable to the production equipment of an electric company; 50941

(c) Multiply the portion of the true value determined under 50942
division (B)(3) of section 5711.21 of the Revised Code by the 50943
assessment rate in section 5727.111 of the Revised Code that is 50944
applicable to the property of an electric company that is not 50945
production equipment. 50946

(2) Personal property leased to a public utility or 50947
interexchange telecommunications company as defined in section 50948
5727.01 of the Revised Code and used directly in the rendition of 50949
a public utility service as defined in division (P) of section 50950
5739.01 of the Revised Code shall be listed and assessed at the 50951
same percentage of true value in money that such property is 50952
required to be assessed by section 5727.111 of the Revised Code if 50953
owned by the public utility or interexchange telecommunications 50954
company. 50955

(C)(1) Merchandise or an agricultural product shipped from 50956
outside this state and held in this state in a warehouse or a 50957
place of storage without further manufacturing or processing and 50958
for storage only and for shipment outside this state, but that is 50959
taxable because it does not qualify as "not used in business in 50960
this state" under division (B)(1) or (2) of section 5701.08 of the 50961
Revised Code, shall be listed and assessed at a rate of 50962
twenty-five one-hundredths of its true value in money until 50963
reduced in accordance with the following schedule: 50964

(a) For any year, subtract five one-hundredths from the rate 50965
at which such property was required to be listed and assessed in 50966
the preceding year, if the total statewide collection of all real 50967
and tangible personal property taxes for the second preceding year 50968

exceeded the total statewide collection of all real and tangible 50969
personal property taxes for the third preceding year by more than 50970
the greater of four per cent or the rate of increase from the 50971
third to the second preceding years in the average consumer price 50972
index (all urban consumers, all items) prepared by the bureau of 50973
labor statistics of the United States department of labor; 50974

(b) If no reduction in the assessment rate is made for a 50975
year, the rate is the same as for the preceding year. 50976

(2) Each year until the year the assessment rate equals zero, 50977
the tax commissioner shall determine the assessment rate required 50978
under this division and shall notify all county auditors of that 50979
rate. 50980

(3) Notwithstanding provisions to the contrary in division 50981
(B) of section 5701.08 of the Revised Code, during and after the 50982
year for which the assessment rate as calculated under this 50983
division equals zero, any merchandise or agricultural product 50984
shipped from outside this state and held in this state in any 50985
warehouse or place of storage, whether public or private, without 50986
further manufacturing or processing and for storage only and for 50987
shipment outside this state to any person for any purpose is not 50988
used in business in this state for property tax purposes. 50989

(D)(1) Merchandise or an agricultural product owned by a 50990
qualified out-of-state person shipped from outside this state and 50991
held in this state in a public warehouse without further 50992
manufacturing or processing and for temporary storage only and for 50993
shipment inside this state, but that is taxable because it does 50994
not qualify as "not used in business in this state" under division 50995
(B)(1) or (2) of section 5701.08 of the Revised Code, shall be 50996
listed and assessed at a rate of twenty-five one-hundredths of its 50997
true value in money until reduced in accordance with the following 50998
schedule: 50999

(a) For any year, subtract five one-hundredths from the rate 51000
at which such property was required to be listed and assessed in 51001
the preceding year, if the total statewide collection of all real 51002
and tangible personal property taxes for the second preceding year 51003
exceeded the total statewide collection of all real and tangible 51004
personal property taxes for the third preceding year by more than 51005
the greater of four per cent or the rate of increase from the 51006
third to the second preceding years in the average consumer price 51007
index (all urban consumers, all items) prepared by the bureau of 51008
labor statistics of the United States department of labor; 51009

(b) If no reduction in the assessment rate is made for a 51010
year, the rate is the same as for the preceding year. 51011

(2) Each year until the year the assessment rate equals zero, 51012
the tax commissioner shall determine the assessment rate required 51013
under this division and shall notify all county auditors of that 51014
rate. 51015

(3) Notwithstanding provisions to the contrary in division 51016
(B) of section 5701.08 of the Revised Code, during and after the 51017
year for which the assessment rate as calculated under this 51018
division equals zero, any merchandise or agricultural product 51019
described in division (D)(1) of this section is not used in 51020
business in this state for property tax purposes. 51021

(4) As used in division (D) of this section: 51022

(a) "Qualified out-of-state person" means a person that does 51023
not own, lease, or use property, other than merchandise or an 51024
agricultural product described in this division, in this state, 51025
and does not have employees, agents, or representatives in this 51026
state; 51027

(b) "Public warehouse" means a warehouse in this state that 51028
is not subject to the control of or under the supervision of the 51029
owner of the merchandise or agricultural product stored in it, or 51030

staffed by the owner's employees, and from which the property is 51031
to be shipped inside this state. 51032

(E) Personal property valued pursuant to section 5711.15 of 51033
the Revised Code and personal property required to be listed on 51034
the average basis by division (A) of section 5711.16 of the 51035
Revised Code, except property described in division (C) or (D) of 51036
this section, business fixtures, and furniture not held for sale 51037
in the course of business, shall be listed and assessed at the 51038
rate of twenty-five per cent of its true value in money until 51039
reduced to zero in accordance with the following schedule: 51040

(1) Beginning in tax year 2002 and for each of tax years 51041
2003, and 2004, ~~2005, and 2006,~~ subtract one percentage point from 51042
the rate at which the property was required to be listed and 51043
assessed in the preceding year, if the total statewide collection 51044
of tangible personal property taxes for the second preceding year 51045
exceeded the total statewide collection of tangible personal 51046
property taxes for the third preceding year. If no reduction in 51047
the assessment rate is made for a year, the rate is the same as 51048
for the preceding year. ~~For purposes of this division, total~~ 51049
~~statewide collection of tangible personal property taxes excludes~~ 51050
~~taxes collected from public utilities and interexchange~~ 51051
~~telecommunications companies on property that is determined to be~~ 51052
~~taxable pursuant to section 5727.06 of the Revised Code.~~ 51053

(2) In tax year ~~2007,~~ ~~the assessment rate shall be the lesser~~ 51054
~~of twenty four per cent or one percentage point less than the rate~~ 51055
~~at which property was required to be listed and assessed the~~ 51056
~~preceding year. Each 2005 and each tax year thereafter, the~~ 51057
assessment rate shall be reduced by ~~one~~ the lesser of two 51058
percentage ~~point until it equals zero per cent not later than tax~~ 51059
~~year 2031 points or the assessment rate for the preceding year if~~ 51060
the total statewide collection of tangible personal property taxes 51061
for the second preceding year exceeded the total statewide 51062

collection of tangible personal property taxes for the third 51063
preceding year. If no reduction in the assessment rate is made for 51064
a year, the rate is the same as for the preceding year. During and 51065
after the tax year that the assessment rate equals zero, the 51066
property described in division (E) of this section shall not be 51067
listed for taxation. 51068

Each year until the year the assessment rate equals zero, the 51069
tax commissioner shall determine the assessment rate required 51070
under this division and shall notify all county auditors of that 51071
rate. 51072

For purposes of division (E) of this section, "total 51073
statewide collection of tangible personal property taxes" excludes 51074
taxes collected from public utilities and interexchange 51075
telecommunications companies on property that is determined to be 51076
taxable pursuant to section 5727.06 of the Revised Code. 51077

(F) Unless otherwise provided by law, all other personal 51078
property used in business that has not been legally regarded as an 51079
improvement on land and considered in arriving at the value of the 51080
real property assessed for taxation shall be listed and assessed 51081
at the rate of twenty-five per cent of its true value in money. 51082

Sec. 5711.27. No taxpayer shall fail to make a return within 51083
the time prescribed by law, or as extended pursuant to section 51084
5711.04 of the Revised Code, nor fail to list in a return or 51085
disclose on an accompanying balance sheet or in other information 51086
filed with the return any item of taxable property ~~which he~~ the 51087
taxpayer is required ~~by~~ to list in the return under sections 51088
5711.01 to 5711.36 of the Revised Code, ~~to list therein.~~ 51089

~~If any taxpayer does so fail the following shall apply:~~ 51090

~~(A) In the case of a taxpayer who fails to make a timely~~ 51091
~~return, the assessor shall add to the taxpayer's assessment as a~~ 51092

~~penalty, one half of the taxpayer's taxable value that is exempt 51093
from taxation under division (C)(3) of section 5709.01 of the 51094
Revised Code. If the taxpayer's taxable value that is exempt from 51095
taxation under division (C)(3) of section 5709.01 of the Revised 51096
Code is located in more than one taxing district, the penalty 51097
assessment shall be applied among taxing districts as if only five 51098
thousand dollars, or one half of the taxpayer's taxable valuation, 51099
whichever is less, had been exempt from taxation under such 51100
division. 51101~~

~~(B) In the case of a taxpayer who fails to make a timely 51102
return, or fails to list or disclose any item he the taxpayer is 51103
required to return, the assessor shall add to the assessment of 51104
each class or item of taxable property ~~which~~ the taxpayer failed 51105
to return, list, or disclose ~~and to any amount added under~~ 51106
~~division (A) of this section,~~ a penalty of up to fifty per cent 51107
~~thereof of the assessment;~~ but if such taxpayer makes, within 51108
sixty days after the expiration of the time prescribed by such 51109
sections, a return or an amended or supplementary return and lists 51110
therein or discloses on an accompanying balance sheet or in other 51111
information filed with the return all items of taxable property 51112
~~which he the taxpayer~~ is required by such sections to list, and in 51113
all cases in which the taxpayer's only default is ~~his~~ the failure 51114
to pay the amounts specified in section 5719.02 of the Revised 51115
Code within the time therein specified, such penalty shall be five 51116
per cent of the assessment, and, if the assessment certificate has 51117
been issued, an amended assessment certificate shall be issued and 51118
substituted therefor. 51119~~

~~Either or both of the penalties~~ The penalty provided in this 51120
section may be abated in whole or in part by the assessor when it 51121
is shown that such failure is due to reasonable cause. The penalty 51122
assessment shall be entered on the proper tax list and duplicate, 51123
and taxes shall be levied thereon the same as on the assessment 51124

itself. 51125

~~If any taxpayer does so fail with respect to a return 51126
required to be filed for tax year 1982 or any prior year, the 51127
assessor shall add to the assessment of each class or item of 51128
taxable property which the taxpayer failed to return, list or 51129
disclose in addition to the penalties provided by law, an 51130
additional charge at the rate of one half of one per cent per 51131
month from the date such property should have been returned or 51132
disclosed until the same is assessed, provided that said 51133
additional charge shall not be added to an assessment for any 51134
period of time in excess of ten years previous to the date of the 51135
assessment. 51136~~

A fiduciary against whom a penalty assessment is made shall 51137
be personally liable for the amount of taxes levied in respect to 51138
such penalty assessment and any additional charge, and in case of 51139
fraud or intent to evade taxes, such fiduciary shall have no right 51140
of reimbursement against the property held by ~~him~~ the fiduciary as 51141
such fiduciary nor against the person for whose benefit the same 51142
is held. 51143

Sec. 5711.33. (A)(1) When a county treasurer receives a 51144
certificate from a county auditor pursuant to division (A) of 51145
section 5711.32 of the Revised Code charging the treasurer with 51146
the collection of an amount of taxes due as the result of a 51147
deficiency assessment, the treasurer shall immediately prepare and 51148
mail a tax bill to the taxpayer owing such tax. The tax bill shall 51149
contain the name of the taxpayer; the taxable value, tax rate, and 51150
taxes charged for each year being assessed; the total amount of 51151
taxes due; the final date payment may be made without additional 51152
penalty; and any other information the treasurer considers 51153
pertinent or necessary. Taxes due and payable as a result of a 51154
deficiency assessment, less any amount specifically excepted from 51155

collection under division (B) of section 5711.32 of the Revised Code, shall be paid with interest thereon as prescribed by section 5719.041 of the Revised Code on or before the sixtieth day following the date of issuance of the certificate by the county auditor. The balance of taxes found due and payable after a final determination by the tax commissioner or a final judgment of the board of tax appeals or any court to which such final judgment may be appealed, shall be paid with interest thereon as prescribed by section 5719.041 of the Revised Code on or before the sixtieth day following the date of certification by the auditor to the treasurer pursuant to division (C) of section 5711.32 of the Revised Code of such final determination or judgment. Such final dates for payment shall be determined and exhibited on the tax bill by the treasurer.

(2) If, on or before the sixtieth day following the date of a certification of a deficiency assessment under division (A) of section 5711.32 of the Revised Code or of a certification of a final determination or judgment under division (C) of section 5711.32 of the Revised Code, the taxpayer pays the full amount of taxes and interest due at the time of the receipt of certification with respect to that assessment, determination, or judgment, no interest shall accrue or be charged with respect to that assessment, determination, or judgment for the period that begins on the first day of the month in which the certification is made and that ends on the last day of the month preceding the month in which such sixtieth day occurs.

(B) When the taxes charged, as mentioned in division (A) of this section, are not paid within the time prescribed by such division, a penalty of ten per cent of the amount due and unpaid and interest for the period described in division (A)(2) of this section shall accrue at the time the treasurer closes the treasurer's office for business on the last day so prescribed, but

if the taxes are paid within ten days subsequent to the last day 51188
prescribed, the treasurer shall waive the collection of and the 51189
auditor shall remit one-half of the penalty. The treasurer shall 51190
not thereafter accept less than the full amount of taxes and 51191
penalty except as otherwise authorized by law. Such penalty shall 51192
be distributed in the same manner and at the same time as the tax 51193
upon which it has accrued. The whole amount collected shall be 51194
included in the next succeeding settlement of appropriate taxes. 51195

(C) When the taxes charged, as mentioned in division (A) of 51196
this section, remain unpaid after the final date for payment 51197
prescribed by such division, such charges shall be deemed to be 51198
delinquent taxes. The county auditor shall cause such charges, 51199
including the penalty that has accrued pursuant to this section, 51200
to be added to the delinquent tax duplicate in accordance with 51201
section 5719.04 of the Revised Code. 51202

(D) The county auditor, upon consultation with the county 51203
treasurer, shall remit a penalty imposed under division (B) of 51204
this section or division (C) of section 5719.03 of the Revised 51205
Code for the late payment of taxes when: 51206

(1) The taxpayer could not make timely payment of the tax 51207
because of the negligence or error of the county auditor or county 51208
treasurer in the performance of a statutory duty relating to the 51209
levy or collection of such tax. 51210

(2) In cases other than those described in division (D)(1) of 51211
this section, the taxpayer failed to receive a tax bill or a 51212
correct tax bill, and the taxpayer made a good faith effort to 51213
obtain such bill within thirty days after the last day for payment 51214
of the tax. 51215

(3) The tax was not timely paid because of the death or 51216
serious injury of the taxpayer, or the taxpayer's confinement in a 51217
hospital within sixty days preceding the last day for payment of 51218

the tax if, in any case, the tax was subsequently paid within 51219
sixty days after the last day for payment of such tax. 51220

(4) The taxpayer demonstrates ~~to the satisfaction of the~~ 51221
~~auditor~~ that the full payment was properly deposited in the mail 51222
in sufficient time for the envelope to be postmarked by the United 51223
States postal service on or before the last day for payment of 51224
such tax. A private meter postmark on an envelope is not a valid 51225
postmark for purposes of establishing the date of payment of such 51226
tax. 51227

(5) In cases other than those described in divisions (D)(1) 51228
to (4) of this section, the taxpayer's failure to make timely 51229
payment of the tax is due to reasonable cause and not willful 51230
neglect. 51231

(E) The taxpayer, upon application within sixty days after 51232
the mailing of the county auditor's decision, may request the tax 51233
commissioner to review the denial of the remission of a penalty by 51234
the county auditor. The application may be filed in person or by 51235
certified mail. If the application is filed by certified mail, the 51236
date of the United States postmark placed on the sender's receipt 51237
by the postal service shall be treated as the date of filing. The 51238
commissioner shall consider the application, determine whether the 51239
penalty should be remitted, and certify the determination to the 51240
taxpayer and to the county treasurer and county auditor, who shall 51241
correct the tax list and duplicate accordingly. The commissioner 51242
~~shall~~ may issue orders and instructions for the uniform 51243
implementation of this section by all county auditors and county 51244
treasurers, and such orders and instructions shall be followed by 51245
such officers. 51246

Sec. 5713.07. The county auditor, at the time of making the 51247
assessment of real property subject to taxation, shall enter in a 51248
separate list pertinent descriptions of all burying grounds, 51249

public schoolhouses, houses used exclusively for public worship, 51250
institutions of purely public charity, real property used 51251
exclusively for a home for the aged, as defined in section 5701.13 51252
of the Revised Code, ~~and~~ public buildings and property used 51253
exclusively for any public purpose, and any other property, with 51254
the lot or tract of land on which such house, institution, ~~or~~ 51255
public building, or other property is situated, and which ~~are~~ 51256
exempt have been exempted from taxation by either the tax 51257
commissioner under section 5715.27 of the Revised Code or by the 51258
housing officer under section 3735.67 of the Revised Code. ~~He~~ The 51259
auditor shall value such houses, buildings, property, and lots and 51260
tracts of land at their taxable value in the same manner as ~~he~~ the 51261
auditor is required to value other real property, designating in 51262
each case the township, municipal corporation, and number of the 51263
school district, or the name or designation of the school, 51264
religious society, or institution to which each house, lot, or 51265
tract belongs. If such property is held and used for other public 51266
purposes, ~~he~~ the auditor shall state by whom or how it is held. 51267

Sec. 5713.08. (A) The county auditor shall make a list of all 51268
real and personal property in the auditor's county, including 51269
money, credits, and investments in bonds, stocks, or otherwise, 51270
which is exempted from taxation. Such list shall show the name of 51271
the owner, the value of the property exempted, and a statement in 51272
brief form of the ground on which such exemption has been granted. 51273
It shall be corrected annually by adding thereto the items of 51274
property which have been exempted during the year, and by striking 51275
therefrom the items which in the opinion of the auditor have lost 51276
their right of exemption and which have been reentered on the 51277
taxable list. No additions shall be made to such exempt lists and 51278
no additional items of property shall be exempted from taxation 51279
without the consent of the tax commissioner as is provided for in 51280
section 5715.27 of the Revised Code, ~~but when~~ or without the 51281

consent of the housing officer under section 3735.67 of the 51282
Revised Code. When any personal property or endowment fund of an 51283
institution has once been held by the commissioner to be properly 51284
exempt from taxation, it is not necessary to obtain the 51285
commissioner's consent to the exemption of additional property or 51286
investments of the same kind belonging to the same institution, 51287
but such property shall appear on the abstract filed annually with 51288
the commissioner. The commissioner may revise at any time the list 51289
in every county so that no property is improperly or illegally 51290
exempted from taxation. The auditor shall follow the orders of the 51291
commissioner given under this section. An abstract of such list 51292
shall be filed annually with the commissioner, on a form approved 51293
by the commissioner, and a copy thereof shall be kept on file in 51294
the office of each auditor for public inspection. 51295

The commissioner shall not consider an application for 51296
exemption of property unless the application has attached thereto 51297
a certificate executed by the county treasurer certifying one of 51298
the following: 51299

(1) That all taxes, assessments, interest, and penalties 51300
levied and assessed against the property sought to be exempted 51301
have been paid in full to the date upon which the application for 51302
exemption is filed, except for such taxes, interest, and penalties 51303
that may be remitted under division (B) of this section; 51304

(2) That the applicant has entered into a valid delinquent 51305
tax contract with the county treasurer pursuant to division (A) of 51306
section 323.31 of the Revised Code to pay all of the delinquent 51307
taxes, assessments, interest, and penalties charged against the 51308
property, except for such taxes, interest, and penalties that may 51309
be remitted under division (B) of this section. If the auditor 51310
receives notice under section 323.31 of the Revised Code that such 51311
a written delinquent tax contract has become void, the auditor 51312
shall strike such property from the list of exempted property and 51313

reenter such property on the taxable list. If property is removed 51314
from the exempt list because a written delinquent tax contract has 51315
become void, current taxes shall first be extended against that 51316
property on the general tax list and duplicate of real and public 51317
utility property for the tax year in which the auditor receives 51318
the notice required by division (A) of section 323.31 of the 51319
Revised Code that the delinquent tax contract has become void or, 51320
if that notice is not timely made, for the tax year in which falls 51321
the latest date by which the treasurer is required by such section 51322
to give such notice. A county auditor shall not remove from any 51323
tax list and duplicate the amount of any unpaid delinquent taxes, 51324
assessments, interest, or penalties owed on property that is 51325
placed on the exempt list pursuant to this division. 51326

(3) That a tax certificate has been issued under section 51327
5721.32 or 5721.33 of the Revised Code with respect to the 51328
property that is the subject of the application, and the tax 51329
certificate is outstanding. 51330

(B) Any taxes, interest, and penalties which have become a 51331
lien after the property was first used for the exempt purpose, but 51332
in no case prior to the date of acquisition of the title to the 51333
property by the applicant, may be remitted by the commissioner, 51334
except as is provided in division (A) of section 5713.081 of the 51335
Revised Code. 51336

(C) Real property acquired by the state in fee simple is 51337
exempt from taxation from the date of acquisition of title or date 51338
of possession, whichever is the earlier date, provided that all 51339
taxes, interest, and penalties as provided in the apportionment 51340
provisions of section 319.20 of the Revised Code have been paid to 51341
the date of acquisition of title or date of possession by the 51342
state, whichever is earlier. The proportionate amount of taxes 51343
that are a lien but not yet determined, assessed, and levied for 51344
the year in which the property is acquired, shall be remitted by 51345

the county auditor for the balance of the year from date of 51346
acquisition of title or date of possession, whichever is earlier. 51347
This section shall not be construed to authorize the exemption of 51348
such property from taxation or the remission of taxes, interest, 51349
and penalties thereon until all private use has terminated. 51350

Sec. 5713.081. (A) No application for real property tax 51351
exemption and tax remission shall be filed with, or considered by, 51352
the tax commissioner in which tax remission is requested for more 51353
than three tax years, and the commissioner shall not remit more 51354
than three years' ~~delinquent~~ taxes, penalties, and interest. 51355

(B) All taxes, penalties, and interest, that have been 51356
delinquent for more than three years, appearing on the general tax 51357
list and duplicate of real property which have been levied and 51358
assessed against parcels of real property owned by the state, any 51359
political subdivision, or any other entity whose ownership of real 51360
property would constitute public ownership, shall be collected by 51361
the county auditor of the county where the real property is 51362
located. Such ~~official~~ auditor shall deduct from each distribution 51363
made by ~~him~~ the auditor, the amount necessary to pay the tax 51364
delinquency from any revenues or funds to the credit of the state, 51365
any political subdivision, or any other entity whose ownership of 51366
real property would constitute public ownership thereof, passing 51367
under ~~his~~ the auditor's control, or which come into ~~his~~ the 51368
auditor's possession, and such deductions shall be made on a 51369
continuing basis until all delinquent taxes, penalties, and 51370
interest noted in this section have been paid. 51371

(C) As used in division (B) of this section, "political 51372
subdivision" includes townships, municipalities, counties, school 51373
districts, boards of education, all state and municipal 51374
universities, park boards, and any other entity whose ownership of 51375
real property would constitute public ownership. 51376

Sec. 5713.082. (A) Whenever the county auditor reenters an item of property to the tax list as provided in section 5713.08 of the Revised Code and there has been no conveyance of the property between separate entities, the auditor shall send notice by certified mail to the owner of the property that it is now subject to property taxation as a result of such action. The auditor shall send the notice at the same time ~~he~~ the auditor certifies the real property tax duplicate to the county treasurer. The notice shall describe the property and indicate that the owner may reapply for tax exemption by filing an application for exemption as provided in section 5715.27 of the Revised Code, and that failure to file such an application within the proper time period will result in the owner having to pay the taxes even if the property continued to be used for an exempt purpose.

(B) If the auditor failed to send the notice required by this section, and if the owner of the property subsequently files an application for tax exemption for the property for the current tax year, the tax commissioner may grant exemption to the property, and ~~he~~ the commissioner shall remit all ~~unpaid~~ taxes and penalties for each prior year since the property was reentered on the tax list notwithstanding the provisions of division (A) of section 5713.081 of the Revised Code.

Sec. 5715.27. (A) ~~The~~ Except as provided in section 3735.67 of the Revised Code, the owner of any property may file an application with the tax commissioner, on forms prescribed by the commissioner, requesting that such property be exempted from taxation and that ~~unpaid~~ taxes and penalties be remitted as provided in division (B) of section 5713.08 of the Revised Code.

(B) The board of education of any school district may request the tax commissioner to provide it with notification of

applications for exemption from taxation for property located 51407
within that district. If so requested, the commissioner shall send 51408
to the board for the quarters ending on the last day of March, 51409
June, September, and December of each year, reports that contain 51410
sufficient information to enable the board to identify each 51411
property that is the subject of an exemption application, 51412
including, but not limited to, the name of the property owner or 51413
applicant, the address of the property, and the auditor's parcel 51414
number. The commissioner shall mail the reports on or about the 51415
fifteenth day of the month following the end of the quarter. 51416

(C) A board of education that has requested notification 51417
under division (B) of this section may, with respect to any 51418
application for exemption of property located in the district and 51419
included in the commissioner's most recent report provided under 51420
that division, file a statement with the commissioner and with the 51421
applicant indicating its intent to submit evidence and participate 51422
in any hearing on the application. The statements shall be filed 51423
prior to the first day of the third month following the end of the 51424
quarter in which that application was docketed by the 51425
commissioner. A statement filed in compliance with this division 51426
entitles the district to submit evidence and to participate in any 51427
hearing on the property and makes the district a party for 51428
purposes of sections 5717.02 to 5717.04 of the Revised Code in any 51429
appeal of the commissioner's decision to the board of tax appeals. 51430

(D) The commissioner shall not hold a hearing on or grant or 51431
deny an application for exemption of property in a school district 51432
whose board of education has requested notification under division 51433
(B) of this section until the end of the period within which the 51434
board may submit a statement with respect to that application 51435
under division (C) of this section. The commissioner may act upon 51436
an application at any time prior to that date upon receipt of a 51437
written waiver from each such board of education, or, in the case 51438

of exemptions authorized by section 725.02, 1728.10, ~~3735.67,~~ 51439
5709.41, 5709.62, or 5709.63 of the Revised Code, upon the request 51440
of the property owner. Failure of a board of education to receive 51441
the report required in division (B) of this section shall not void 51442
an action of the commissioner with respect to any application. The 51443
commissioner may extend the time for filing a statement under 51444
division (C) of this section. 51445

(E) A complaint may also be filed with the commissioner by 51446
any person, board, or officer authorized by section 5715.19 of the 51447
Revised Code to file complaints with the county board of revision 51448
against the continued exemption of any property granted exemption 51449
by the commissioner under this section. 51450

(F) An application for exemption and a complaint against 51451
exemption shall be filed prior to the thirty-first day of December 51452
of the tax year for which exemption is requested or for which the 51453
liability of ~~any~~ the property to taxation in that year is 51454
requested. The commissioner shall consider such application or 51455
complaint in accordance with procedures established by the 51456
commissioner, determine whether the property is subject to 51457
taxation or exempt therefrom, and certify the commissioner's 51458
findings to the auditor, who shall correct the tax list and 51459
duplicate accordingly. If a tax certificate has been sold under 51460
section 5721.32 or 5721.33 of the Revised Code with respect to 51461
property for which an exemption has been requested, the tax 51462
commissioner shall also certify the findings to the county 51463
treasurer of the county in which the property is located. 51464

(G) Applications and complaints, and documents of any kind 51465
related to applications and complaints, filed with the tax 51466
commissioner under this section, are public records within the 51467
meaning of section 149.43 of the Revised Code. 51468

(H) If the commissioner determines that the use of property 51469
or other facts relevant to the taxability of property that is the 51470

subject of an application for exemption or a complaint under this 51471
section has changed while the application or complaint was 51472
pending, the commissioner may make the determination under 51473
division (F) of this section separately for each tax year 51474
beginning with the year in which the application or complaint was 51475
filed or the year for which remission of ~~unpaid~~ taxes under 51476
division (B) of section 5713.08 of the Revised Code was requested, 51477
and including each subsequent tax year during which the 51478
application or complaint is pending before the commissioner. 51479

Sec. 5715.39. (A) The tax commissioner may remit real 51480
property taxes, manufactured home taxes, penalties, and interest 51481
found by the commissioner to have been illegally assessed. The 51482
commissioner also may remit any penalty charged against any real 51483
property or manufactured or mobile home that was the subject of an 51484
application for exemption from taxation under section 5715.27 of 51485
the Revised Code if the commissioner determines that the applicant 51486
requested such exemption in good faith. The commissioner shall 51487
include notice of the remission in the commissioner's 51488
certification to the county auditor required under that section. 51489

(B) ~~The commissioner, on application by a taxpayer county~~ 51490
auditor, upon consultation with the county treasurer, shall remit 51491
a penalty for late payment of any real property taxes or 51492
manufactured home taxes when: 51493

~~(A)~~(1) The taxpayer could not make timely payment of the tax 51494
because of the negligence or error of the county auditor or county 51495
treasurer in the performance of a statutory duty relating to the 51496
levy or collection of such tax. 51497

~~(B)~~(2) In cases other than those described in division 51498
~~(A)~~(B)(1) of this section, the taxpayer failed to receive a tax 51499
bill or a correct tax bill, and the taxpayer made a good faith 51500
effort to obtain such bill within thirty days after the last day 51501

for payment of the tax. 51502

~~(C)~~(3) The tax was not timely paid because of the death or 51503
serious injury of the taxpayer, or the taxpayer's confinement in a 51504
hospital within sixty days preceding the last day for payment of 51505
the tax if, in any case, the tax was subsequently paid within 51506
sixty days after the last day for payment of such tax. 51507

~~(D)~~(4) The taxpayer demonstrates ~~to the satisfaction of the~~ 51508
~~commissioner~~ that the full payment was properly deposited in the 51509
mail in sufficient time for the envelope to be postmarked by the 51510
United States postal service on or before the last day for payment 51511
of such tax. A private meter postmark on an envelope is not a 51512
valid postmark for purposes of establishing the date of payment of 51513
such tax. 51514

(5) In cases other than those described in division (B)(1) to 51515
(4) of this section, the taxpayer's failure to make timely payment 51516
of the tax is due to reasonable cause and not willful neglect. 51517

(C) The taxpayer, upon application within sixty days after 51518
the mailing of the county auditor's decision, may request the tax 51519
commissioner to review the denial of the remission of a penalty by 51520
the auditor. The application may be filed in person or by 51521
certified mail. If the application is filed by certified mail, the 51522
date of the United States postmark placed on the sender's receipt 51523
by the postal service shall be treated as the date of filing. The 51524
commissioner shall consider the application, determine whether the 51525
penalty should be remitted, and certify the determination to the 51526
taxpayer, to the county treasurer, and to the county auditor, who 51527
shall correct the tax list and duplicate accordingly. The 51528
commissioner may issue orders and instructions for the uniform 51529
implementation of this section by all county auditors and county 51530
treasurers, and such orders and instructions shall be followed by 51531
such officers. 51532

(D) This section shall not provide to the taxpayer any remedy with respect to any matter that the taxpayer may be authorized to complain of under section 4503.06, 5715.19, 5717.02, ~~and or~~ 5727.47 of the Revised Code.

(E) Applications for remission, and documents of any kind related to those applications, filed with the tax commissioner under this section, are public records within the meaning of section 149.43 of the Revised Code, unless otherwise excepted under that section.

Sec. 5717.011. (A) As used in this chapter, "tax administrator" has the same meaning as in section 718.01 of the Revised Code.

(B) Appeals from final determinations by a tax administrator for a tax imposed on income by a municipal corporation may be taken by the taxpayer to the board of tax appeals. Such appeals shall be taken by the filing of a notice of appeal with the board and with the tax administrator. The notice of appeal shall be filed within sixty days after service of the tax administrator's final determination. The notice of appeal may be filed in person or by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code. If the notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. The notice of appeal shall have attached thereto and incorporated therein by reference a true copy of the final determination sent by the administrator to the taxpayer and shall specify the errors therein complained of, but failure to attach a copy of such notice and incorporate it by reference in

the notice of appeal does not invalidate the appeal. 51564

(C) Upon the filing of a notice of appeal, the tax administrator shall certify to the board a transcript of the record of the proceedings before the administrator, together with all evidence considered by the administrator in connection therewith. Such appeals may be heard by the board at its office in Columbus or in the county where the appellant resides, or it may cause its examiners to conduct such hearings and to report to it their findings for affirmation or rejection. The board may order the appeal to be heard upon the record and the evidence certified to it by the administrator, but upon the application of any interested party the board shall order the hearing of additional evidence, and the board may make such investigation concerning the appeal as it considers proper. 51565
51566
51567
51568
51569
51570
51571
51572
51573
51574
51575
51576
51577

Sec. 5717.02. Except as otherwise provided by law, appeals from final determinations by the tax commissioner of any preliminary, amended, or final tax assessments, reassessments, valuations, determinations, findings, computations, or orders made by the commissioner may be taken to the board of tax appeals by the taxpayer, by the person to whom notice of the tax assessment, reassessment, valuation, determination, finding, computation, or order by the commissioner is required by law to be given, by the director of budget and management if the revenues affected by such decision would accrue primarily to the state treasury, or by the county auditors of the counties to the undivided general tax funds of which the revenues affected by such decision would primarily accrue. Appeals from the redetermination by the director of development under division (B) of former section 5709.64 or division (A) of former section 5709.66 of the Revised Code may be taken to the board of tax appeals by the enterprise to which notice of the redetermination is required by law to be given. Appeals from a decision of the tax commissioner concerning an 51578
51579
51580
51581
51582
51583
51584
51585
51586
51587
51588
51589
51590
51591
51592
51593
51594
51595

application for a property tax exemption may be taken to the board 51596
of tax appeals by a school district that filed a statement 51597
concerning such application under division (C) of section 5715.27 51598
of the Revised Code. Appeals from a redetermination by the 51599
director of job and family services under section 5733.42 of the 51600
Revised Code may be taken by the person to which the notice of the 51601
redetermination is required by law to be given under that section. 51602

Such appeals shall be taken by the filing of a notice of 51603
appeal with the board, and with the tax commissioner if the tax 51604
commissioner's action is the subject of the appeal, with the 51605
director of development if that director's action is the subject 51606
of the appeal, or with the director of job and family services if 51607
that director's action is the subject of the appeal. The notice of 51608
appeal shall be filed within sixty days after service of the 51609
notice of the tax assessment, reassessment, valuation, 51610
determination, finding, computation, or order by the commissioner 51611
or redetermination by the director has been given as provided in 51612
section 5703.37, ~~5709.64, 5709.66~~, or 5733.42 or former sections 51613
5709.64 and 5709.66 of the Revised Code. The notice of such appeal 51614
may be filed in person or by certified mail, express mail, or 51615
authorized delivery service. If the notice of such appeal is filed 51616
by certified mail, express mail, or authorized delivery service as 51617
provided in section 5703.056 of the Revised Code, the date of the 51618
United States postmark placed on the sender's receipt by the 51619
postal service or the date of receipt recorded by the authorized 51620
delivery service shall be treated as the date of filing. The 51621
notice of appeal shall have attached thereto and incorporated 51622
therein by reference a true copy of the notice sent by the 51623
commissioner or director to the taxpayer, enterprise, or other 51624
person of the final determination or redetermination complained 51625
of, and shall also specify the errors therein complained of, but 51626
failure to attach a copy of such notice and incorporate it by 51627
reference in the notice of appeal does not invalidate the appeal. 51628

Upon the filing of a notice of appeal, the tax commissioner 51629
or the director, as appropriate, shall certify to the board a 51630
transcript of the record of the proceedings before the 51631
commissioner or director, together with all evidence considered by 51632
the commissioner or director in connection therewith. Such appeals 51633
or applications may be heard by the board at its office in 51634
Columbus or in the county where the appellant resides, or it may 51635
cause its examiners to conduct such hearings and to report to it 51636
their findings for affirmation or rejection. The board may order 51637
the appeal to be heard upon the record and the evidence certified 51638
to it by the commissioner or director, but upon the application of 51639
any interested party the board shall order the hearing of 51640
additional evidence, and it may make such investigation concerning 51641
the appeal as it considers proper. 51642

Sec. 5717.03. (A) A decision of the board of tax appeals on 51643
an appeal filed with it pursuant to section 5717.01, 5717.011, or 51644
5717.02 of the Revised Code shall be entered of record on the 51645
journal together with the date when the order is filed with the 51646
secretary for journalization. 51647

(B) In case of an appeal from a decision of a county board of 51648
revision, the board of tax appeals shall determine the taxable 51649
value of the property whose valuation or assessment by the county 51650
board of revision is complained of, or in the event the complaint 51651
and appeal is against a discriminatory valuation, shall determine 51652
a valuation which shall correct such discrimination, and shall 51653
determine the liability of the property for taxation, if that 51654
question is in issue, and ~~it~~ the board of tax appeals's decision 51655
and the date when it was filed with the secretary for 51656
journalization shall be certified by ~~it~~ the board by certified 51657
mail to all persons who were parties to the appeal before ~~it~~ the 51658
board, to the person in whose name the property is listed, or 51659

sought to be listed, if such person is not a party to the appeal, 51660
to the county auditor of the county in which the property involved 51661
in the appeal is located, and to the tax commissioner. 51662

In correcting a discriminatory valuation, the board of tax 51663
appeals shall increase or decrease the value of the property whose 51664
valuation or assessment by the county board of revision is 51665
complained of by a per cent or amount which will cause such 51666
property to be listed and valued for taxation by an equal and 51667
uniform rule. 51668

(C) In the case of an appeal from a review, redetermination, 51669
or correction of a tax assessment, valuation, determination, 51670
finding, computation, or order of the tax commissioner, the order 51671
of the board of tax appeals and the date of the entry thereof upon 51672
its journal shall be certified by ~~it~~ the board by certified mail 51673
to all persons who were parties to the appeal before ~~it~~ the board, 51674
the person in whose name the property is listed or sought to be 51675
listed, if the decision determines the valuation or liability of 51676
property for taxation and if such person is not a party to the 51677
appeal, the taxpayer or other person to whom notice of the tax 51678
assessment, valuation, determination, finding, computation, or 51679
order, or correction or redetermination thereof, by the tax 51680
commissioner was by law required to be given, the director of 51681
budget and management, if the revenues affected by such decision 51682
would accrue primarily to the state treasury, and the county 51683
auditors of the counties to the undivided general tax funds of 51684
which the revenues affected by such decision would primarily 51685
accrue. 51686

(D) In the case of an appeal from a final determination of a 51687
tax administrator, the order of the board of tax appeals and the 51688
date of the entry thereof upon the board's journal shall be 51689
certified by the board by certified mail to all persons who were 51690
parties to the appeal before the board. 51691

(E) In the case of all other appeals or applications filed 51692
with and determined by the board ~~its~~, the board's order and the 51693
date when ~~it~~ the order was filed by the secretary for 51694
journalization shall be certified by ~~it~~ the board by certified 51695
mail to the person who is a party to such appeal or application, 51696
to such persons as the law requires, and to such other persons as 51697
the board deems proper. 51698

(F) The orders of the board may affirm, reverse, vacate, 51699
modify, or remand the tax assessments, valuations, determinations, 51700
findings, computations, or orders complained of in the appeals 51701
determined by ~~it~~ the board, and ~~its~~ the board's decision shall 51702
become final and conclusive for the current year unless reversed, 51703
vacated, or modified as provided in section 5717.04 of the Revised 51704
Code. When an order of the board becomes final the tax 51705
commissioner and all officers to whom such decision has been 51706
certified shall make the changes in their tax lists or other 51707
records which the decision requires. 51708

(G) If the board finds that issues not raised on the appeal 51709
are important to a determination of a controversy, ~~it~~ the board 51710
may remand the cause for an administrative determination and the 51711
issuance of a new tax assessment, valuation, determination, 51712
finding, computation, or order, unless the parties stipulate to 51713
the determination of such other issues without remand. An order 51714
remanding the cause is a final order, which may be appealed to the 51715
court of appeals in Franklin county. 51716

Sec. 5719.07. Subject to the rules prescribed by the tax 51717
commissioner, a county treasurer charged with the collection of 51718
delinquent taxes may issue a certificate of release of the lien 51719
provided for in section 5719.04 of the Revised Code if the amount 51720
secured thereby has been paid or omitted from the delinquent tax 51721
list and duplicate pursuant to section 5719.06 of the Revised 51722

Code. The treasurer shall issue a certificate of partial discharge 51723
of any part of the real property subject to the lien ~~if he finds~~ 51724
after finding that the value of the part of the property remaining 51725
subject to the lien is at least double the amount of the 51726
delinquent taxes and all prior liens upon such real property. Such 51727
certificate shall be filed and recorded with the county recorder 51728
of the county in which the notice of lien has been filed, for 51729
which recording the recorder shall charge a base fee of two 51730
dollars for services and a housing trust fund fee of two dollars 51731
pursuant to section 317.36 of the Revised Code. 51732

Sec. 5725.01. As used in sections 5725.01 to 5725.26 of the 51733
Revised Code: 51734

(A) "Financial institution" means: 51735

(1) A national bank organized and existing as a national bank 51736
association pursuant to the "National Bank Act," 12 U.S.C. 21; 51737

(2) A federal savings association or federal savings bank 51738
that is chartered under 12 U.S.C. 1464; 51739

(3) A bank, banking association, trust company, savings and 51740
loan association, savings bank, or other banking institution that 51741
is incorporated or organized under the laws of any state; 51742

(4) Any corporation organized under 12 U.S.C. 611 to 631; 51743

(5) Any agency or branch of a foreign depository as defined 51744
in 12 U.S.C. 3101; 51745

(6) A company licensed as a small business investment company 51746
under the "Small Business Investment Act of 1958," 72 Stat. 689, 51747
15 U.S.C. 661, as amended; or 51748

(7) A company chartered under the "Farm Credit Act of 1933," 51749
48 Stat. 257, 12 U.S.C. 1131(d), as amended. 51750

Corporations or institutions organized under the "Federal 51751

Farm Loan Act" and amendments thereto, insurance companies, and 51752
credit unions shall not be considered financial institutions or 51753
dealers in intangibles within the meaning of such sections. 51754

(B) "Dealer in intangibles" includes every person ~~who keeps~~ 51755
~~an office or other place of business in this state and engages at~~ 51756
~~such office or other place~~ engaging in the business of lending 51757
money, or discounting, buying, or selling bills of exchange, 51758
drafts, acceptances, notes, mortgages, or other evidences of 51759
indebtedness, or of buying or selling bonds, stocks, or other 51760
investment securities, whether on the person's own account with a 51761
view to profit, or as agent or broker for others, with a view to 51762
profit or personal earnings. Dealer in intangibles excludes 51763
institutions used exclusively for charitable purposes, insurance 51764
companies, and financial institutions. Neither casual nor isolated 51765
transactions of any of the kinds enumerated in this division of 51766
this section, nor the investment of funds as personal 51767
accumulations or as business reserves or working capital 51768
constitute engaging in business within the meaning of this 51769
division of this section; but a person who, having engaged in the 51770
business of lending money, or discounting, buying, or selling 51771
bills of exchange, drafts, acceptances, notes, mortgages, or other 51772
evidences of indebtedness on the person's own account, remains in 51773
business for the purpose of realizing upon the assets of such 51774
business is deemed a dealer in intangibles, though not presently 51775
engaged in lending money or discounting or buying such securities. 51776

(C) "Insurance company" includes every corporation, 51777
association, and society engaged in the business of insurance of 51778
any character, or engaged in the business of entering into 51779
contracts substantially amounting to insurance of any character, 51780
or of indemnifying or guaranteeing against loss or damage, or 51781
acting as surety on bonds or undertakings. "Insurance company" 51782
also includes any health insuring corporation as defined in 51783

section 1751.01 of the Revised Code. 51784

(D) "Domestic insurance company" includes every insurance 51785
company organized and existing under the laws of this state, and 51786
every unincorporated association and society formed under the laws 51787
of this state for the purpose of engaging in said business, except 51788
a company, association, or society that is an insurance holding 51789
company affiliate controlled by a nonresident affiliate and has 51790
risks in this state formerly written by its foreign affiliates in 51791
a total amount exceeding the risks outstanding on the taxpayer's 51792
latest annual report that arise from business initially written by 51793
it in this state; and excludes every foreign insurance company. As 51794
used in this division, terms defined in section 3901.32 of the 51795
Revised Code have the same meanings given to them in that section. 51796

(E) "Foreign insurance company" includes every insurance 51797
company organized or existing under the laws of any other state, 51798
territory, country, or the United States and every insurance 51799
holding company affiliate excepted under division (D) of this 51800
section. 51801

Sec. 5725.14. (A) As used in this section and section 5725.15 51802
of the Revised Code: 51803

(1) "Billing address" of a customer means one of the 51804
following: 51805

(a) The customer's address as set forth in any notice, 51806
statement, bill, or similar acknowledgment shall be presumed to be 51807
the address where the customer is located with respect to the 51808
transaction for which the dealer issued the notice, statement, 51809
bill, or acknowledgment. 51810

(b) If the dealer issues any notice, statement, bill, or 51811
similar acknowledgment electronically to an address other than a 51812
street address or post office box address or if the dealer does 51813

not issue such a notice, statement, bill, or acknowledgment, the 51814
customer's street address as set forth in the records of the 51815
dealer at the time of the transaction shall be presumed to be the 51816
address where the customer is located. 51817

(2) "Commissions" includes but is not limited to brokerage 51818
commissions, asset management fees, and similar fees charged in 51819
the regular course of business to a customer for the maintenance 51820
and management of the customer's account. 51821

(3) "Gross receipts" means one of the following: 51822

(a) In the case of a dealer in intangibles principally 51823
engaged in the business of lending money or discounting loans, the 51824
aggregate amount of loans effected or discounted; 51825

(b) In the case of a dealer in intangibles principally 51826
engaged in the business of selling or buying stocks, bonds, or 51827
other similar securities either on the dealer's own account or as 51828
agent for another, the aggregate amount of all commissions 51829
charged. 51830

(B) Divisions (B)(1), (2), and (3) of this section apply only 51831
through the 2003 return year. 51832

(1) Each dealer in intangibles shall return to the tax 51833
commissioner between the first and second Mondays of March, 51834
annually, a report exhibiting in detail, and under appropriate 51835
heads, the dealer's resources and liabilities at the close of 51836
business on the thirty-first day of December next preceding. In 51837
the case of an unincorporated dealer in intangibles, such report 51838
shall also exhibit the amount or value as of the date of 51839
conversion of all property within the year preceding the date of 51840
listing, and on or after the first day of November converted into 51841
bonds or other securities not taxed to the extent such nontaxable 51842
bonds or securities may be shown in the dealer's resources on such 51843
date, without deduction for indebtedness created in the purchase 51844

of such nontaxable bonds or securities. 51845

If a dealer in intangibles maintains separate business 51846
offices, whether within this state only or within and without this 51847
state, the report shall also show the gross receipts from business 51848
done at each such office during the year ending on the 51849
thirty-first day of December next preceding. 51850

For the purposes of this section and section 5725.15 of the 51851
Revised Code, business is considered done at an office when it 51852
originates at such office, but the receipts from business 51853
originating at one office and consummated at another office shall 51854
be divided equitably between such offices. 51855

~~(C)~~(2) For the purposes of this section and section 5725.15 51856
of the Revised Code, in the case of a dealer in intangibles 51857
principally engaged in the business of selling or buying stocks, 51858
bonds, or other similar securities either on the dealer's own 51859
account or as agent for another, the dealer's capital, surplus, 51860
and undivided profits employed in this state shall bear the same 51861
ratio to the dealer's total capital, surplus, and undivided 51862
profits employed everywhere as the amount described in division 51863
~~(C)~~(1)~~(B)~~(2)~~(a)~~ of this section bears to the amount described in 51864
division ~~(C)~~(2)~~(B)~~(2)~~(b)~~ of this section: 51865

~~(1)~~(a) The sum of the commissions earned during the year 51866
covered by the report from transactions with respect to brokerage 51867
accounts owned by customers having billing addresses in this 51868
state; 51869

~~(2)~~(b) The sum of the commissions earned during that year 51870
from transactions with respect to brokerage accounts owned by all 51871
of the dealer's customers. 51872

~~(D)~~(3) An incorporated dealer in intangibles which owns or 51873
controls fifty-one per cent or more of the common stock of another 51874
incorporated dealer in intangibles may, under uniform regulations 51875

prescribed by the tax commissioner, make a consolidated return for 51876
the purpose of sections 5725.01 to 5725.26, ~~inclusive~~, of the 51877
Revised Code. In such case the parent corporation making such 51878
return is not required to include in its resources any of the 51879
stocks, securities, or other obligations of its subsidiary 51880
dealers, nor permitted to include in its liabilities any of its 51881
own securities or other obligations belonging to its subsidiaries. 51882

Sec. 5725.25. (A) The real estate of a domestic insurance 51883
company shall be taxed in the place where it is located, the same 51884
as the real estate of other persons is taxed, but the tax provided 51885
for by sections 5725.01 to 5725.26 of the Revised Code, shall be 51886
in lieu of all other taxes on the other property and assets of 51887
such domestic insurance company, except as provided in division 51888
(B) of this section, and of all other taxes, charges, and excises 51889
on such domestic insurance companies, and all other taxes on the 51890
stockholders, members, or policyholders of such company by reason 51891
of their stock or other interest in such insurance company, except 51892
as to annuities or the right to receive the proceeds of a policy 51893
payable after its maturity in installments, or left with the 51894
company at interest. Sections 5725.01 to 5725.26 of the Revised 51895
Code do not assess any tax on any foreign insurance company or 51896
affect any tax on a foreign insurance company under any laws of 51897
this state. 51898

(B) Tangible personal property taxable under Chapter 5711. of 51899
the Revised Code shall be subject to taxation if it is owned by a 51900
domestic insurance company and leased or held for the purpose of 51901
leasing to a person other than an insurance company for use in 51902
business. 51903

(C) For reports required to be filed under section 5725.14 of 51904
the Revised Code in 2003 ~~and thereafter~~, nothing in this section 51905
shall be construed to exempt the property of any dealer in 51906

intangibles under section 5725.13 of the Revised Code from the tax 51907
imposed under section 5707.03 of the Revised Code. 51908

Sec. 5725.26. The real estate of a financial institution ~~or~~ 51909
~~dealer in intangibles~~ shall be taxed in the place where it is 51910
located, the same as the real estate of persons is taxed, but the 51911
~~taxes tax~~ provided for in ~~Chapters 5725. and~~ Chapter 5733. of the 51912
Revised Code, shall be in lieu of all other taxes on the other 51913
property and assets of such institution ~~or dealer~~, except personal 51914
property taxable under Chapter 5711. of the Revised Code and 51915
leased, or held for the purpose of leasing, to others if the owner 51916
or lessor of the property acquired it for the sole purpose of 51917
leasing it to others. 51918

For reports required to be filed under section 5725.14 of the 51919
Revised Code in 2003 ~~and thereafter~~, nothing in this section shall 51920
be construed to exempt the property of any dealer in intangibles 51921
under section 5725.13 of the Revised Code from the tax imposed 51922
under section 5707.03 of the Revised Code. 51923

Sec. 5727.01. As used in this chapter: 51924

(A) "Public utility" means each person referred to as a 51925
telephone company, ~~telegraph company~~, electric company, natural 51926
gas company, pipe-line company, water-works company, water 51927
transportation company, heating company, rural electric company, 51928
railroad company, or combined company. 51929

(B) "Gross receipts" means the entire receipts for business 51930
done by any person from operations as a public utility, or 51931
incidental thereto, or in connection therewith, including any 51932
receipts received under Chapter 4928. of the Revised Code. The 51933
gross receipts for business done by an incorporated company 51934
engaged in operation as a public utility includes the entire 51935
receipts for business done by such company under the exercise of 51936

its corporate powers, whether from the operation as a public utility or from any other business.

(C) "Rural electric company" means any nonprofit corporation, organization, association, or cooperative engaged in the business of supplying electricity to its members or persons owning an interest therein in an area the major portion of which is rural.

(D) Any person:

~~(1) Is a telegraph company when engaged in the business of transmitting telegraphic messages to, from, through, or in this state;~~

~~(2) Is a telephone company when primarily engaged in the business of providing local exchange telephone service, excluding cellular radio service, in this state;~~

~~(3)~~(2) Is an electric company when engaged in the business of generating, transmitting, or distributing electricity within this state for use by others, but excludes a rural electric company;

~~(4)~~(3) Is a natural gas company when engaged in the business of supplying or distributing natural gas for lighting, power, or heating purposes to consumers within this state, excluding a person that is a governmental aggregator or retail natural gas supplier as defined in section 4929.01 of the Revised Code;

~~(5)~~(4) Is a pipe-line company when engaged in the business of transporting natural gas, oil, or coal or its derivatives through pipes or tubing, either wholly or partially within this state;

~~(6)~~(5) Is a water-works company when engaged in the business of supplying water through pipes or tubing, or in a similar manner, to consumers within this state;

~~(7)~~(6) Is a water transportation company when engaged in the transportation of passengers or property, by boat or other watercraft, over any waterway, whether natural or artificial, from

one point within this state to another point within this state, or 51967
between points within this state and points without this state; 51968

~~(8)~~(7) Is a heating company when engaged in the business of 51969
supplying water, steam, or air through pipes or tubing to 51970
consumers within this state for heating purposes; 51971

~~(9)~~(8) Is a railroad company when engaged in the business of 51972
owning or operating a railroad either wholly or partially within 51973
this state on rights-of-way acquired and held exclusively by such 51974
company, or otherwise, and includes a passenger, street, suburban, 51975
or interurban railroad company. 51976

As used in division (D)~~(2)~~(1) of this section, "local 51977
exchange telephone service" means making available or furnishing 51978
access and a dial tone to all persons within a local calling area 51979
for use in originating and receiving voice grade communications 51980
over a switched network operated by the provider of the service 51981
within the area and for gaining access to other telecommunication 51982
services. 51983

(E) "Taxable property" means the real property and tangible 51984
personal property required by section 5727.06 of the Revised Code 51985
to be assessed by the tax commissioner, ~~but. The exemption~~ 51986
provided in division (C)(3) of section 5709.01 of the Revised Code 51987
does not apply to such property. "Taxable property" does not 51988
include either of the following: 51989

(1) An item of tangible personal property that for the period 51990
subsequent to the effective date of an air, water, or noise 51991
pollution control certificate and continuing so long as the 51992
certificate is in force, has been certified as part of the 51993
pollution control facility with respect to which the certificate 51994
has been issued; 51995

(2) An item of tangible personal property that during the 51996
construction of a plant or facility and until the item is first 51997

capable of operation, whether actually used in operation or not, 51998
is incorporated in or being held exclusively for incorporation in 51999
that plant or facility. 52000

(F) "Taxing district" means a municipal corporation ~~of~~ or 52001
township, or part thereof, in which the aggregate rate of taxation 52002
is uniform. 52003

(G) "Telecommunications service" has the same meaning as in 52004
division (AA) of section 5739.01 of the Revised Code. 52005

(H) "Interexchange telecommunications company" means a person 52006
that is engaged in the business of transmitting telephonic 52007
messages to, from, through, or in this state, but that is not a 52008
telephone company. 52009

(I) "Sale and leaseback transaction" means a transaction in 52010
which a public utility or interexchange telecommunications company 52011
sells any tangible personal property to a person other than a 52012
public utility or interexchange telecommunications company and 52013
leases that property back from the buyer. 52014

(J) "Production equipment" means all taxable steam, nuclear, 52015
hydraulic, and other production plant equipment used to generate 52016
electricity. ~~For tax years prior to 2001, "production equipment"~~ 52017
~~includes taxable station equipment that is located at a production~~ 52018
~~plant.~~ 52019

(K) "Tax year" means the year for which property or gross 52020
receipts are subject to assessment under this chapter. This 52021
division does not limit the tax commissioner's ability to assess 52022
and value property or gross receipts outside the tax year. 52023

(L) "Combined company" means any person engaged in the 52024
activity of an electric company or rural electric company that is 52025
also engaged in the activity of a heating company or a natural gas 52026
company, or any combination thereof. 52027

Sec. 5727.06. (A) Except as otherwise provided by law, the 52028
following constitutes the taxable property of a public utility or 52029
interexchange telecommunications company that shall be assessed by 52030
the tax commissioner: 52031

(1) In the case of a railroad company, all real property and 52032
tangible personal property owned or operated by the railroad 52033
company in this state on the thirty-first day of December of the 52034
preceding year; 52035

(2) In the case of a water transportation company, all 52036
tangible personal property, except watercraft, owned or operated 52037
by the water transportation company in this state on the 52038
thirty-first day of December of the preceding year, and, 52039
notwithstanding division (B)(2) of section 5709.01 of the Revised 52040
Code, all watercraft owned or operated by the water transportation 52041
company in this state during the preceding calendar year, with 52042
only the watercraft, including non-watercraft property, that is 52043
located in this state on the thirty-first day of December of the 52044
preceding year being apportioned under division (D) of section 52045
5727.15 of the Revised Code; 52046

(3) In the case of all other public utilities and 52047
interexchange telecommunications companies, all tangible personal 52048
property that on the thirty-first day of December of the preceding 52049
year was both located in this state and: 52050

(a) Owned by the public utility or interexchange 52051
telecommunications company; or 52052

(b) Leased by the public utility or interexchange 52053
telecommunications company under a sale and leaseback transaction. 52054

(B) In the case of an interexchange telecommunications 52055
company, all taxable property shall be subject to the provisions 52056
of this chapter and shall be valued by the commissioner in 52057

accordance with division (A) of section 5727.11 of the Revised Code. A person described by this division shall file the report required by section 5727.08 of the Revised Code. Persons described in this division shall not be considered taxpayers, as defined in division (B) of section 5711.01 of the Revised Code, and shall not be required to file a return and list their taxable property under any provision of Chapter 5711. of the Revised Code.

(C) The lien of the state for taxes levied each year on the real and personal property of public utilities and interexchange telecommunications companies shall attach thereto on the thirty-first day of December of the preceding year.

(D) Property that is required by division (A)(3)(b) of this section to be assessed by the tax commissioner under this chapter shall not be listed by the owner of the property under Chapter 5711. of the Revised Code.

(E) The tax commissioner may adopt rules governing the listing of the taxable property of public utilities and interexchange telecommunications companies and the determination of true value.

Sec. 5727.111. The taxable property of each public utility, except a railroad company, and of each interexchange telecommunications company shall be assessed at the following percentages of true value:

(A)(1) Except as provided in division (A)(2) of this section, fifty per cent in the case of a rural electric company;

(2) For tax year 2001 and thereafter, fifty per cent in the case of the taxable transmission and distribution property of a rural electric company, and twenty-five per cent for all its other taxable property;

(B) In the case of a telephone ~~or telegraph~~ company,

twenty-five per cent for taxable property first subject to 52088
taxation in this state for tax year 1995 or thereafter, and 52089
~~eighty-eight per cent~~ the following for all other taxable 52090
property: 52091

(1) For tax years prior to 2005, eighty-eight per cent; 52092

(2) For tax year 2005, sixty-seven per cent; 52093

(3) For tax year 2006, forty-six per cent; 52094

(4) For tax year 2007 and thereafter, twenty-five per cent. 52095

~~(C)(1) Except as provided in division (C)(2) of this section,~~ 52096
~~eighty-eight per cent in the case of a natural gas company;~~ 52097

~~(2) For tax year 2001 and thereafter, twenty five~~ Twenty-five 52098
per cent in the case of a natural gas company, interexchange 52099
telecommunications company, and water transportation company. 52100

(D) Eighty-eight per cent in the case of a ~~pipe-line,~~ 52101
water-works, or heating company; 52102

(E)(1) Except as provided in division (E)(2) or (3) of this 52103
section, one hundred per cent in the case of the taxable 52104
production equipment of an electric company and eighty-eight per 52105
cent for all its other taxable property; 52106

(2) For tax year 2001 and thereafter, eighty-eight per cent 52107
in the case of the taxable transmission and distribution property 52108
of an electric company, and twenty-five per cent for all its other 52109
taxable property; 52110

(3) Property listed and assessed under divisions (B)(1) and 52111
(2) of section 5711.22 of the Revised Code and leased to an 52112
electric company shall continue to be assessed at one hundred per 52113
cent for production equipment and eighty-eight per cent for all 52114
such other taxable property until January 1, 2002. 52115

~~(F) Twenty five per cent in the case of an interexchange~~ 52116
~~telecommunications company;~~ 52117

~~(G) Twenty five per cent in~~ In the case of a water 52118
~~transportation pipe-line~~ company: 52119

(1) For tax years prior to 2005, eighty-eight per cent; 52120

(2) For tax year 2005, sixty-seven per cent; 52121

(3) For tax year 2006, forty-six per cent; 52122

(4) For tax year 2007 and thereafter, twenty-five per cent. 52123

Sec. 5727.15. When all the taxable property of a public 52124
utility is located in one taxing district, the tax commissioner 52125
shall apportion the total taxable value thereof to that taxing 52126
district. 52127

When taxable property of a public utility is located in more 52128
than one taxing district, the commissioner shall apportion the 52129
total taxable value thereof among the taxing districts as follows: 52130

(A)(1) In the case of ~~a telegraph,~~ an interexchange 52131
telecommunications, or a telephone company that owns miles of wire 52132
in this state, the value apportioned to each taxing district shall 52133
be the same percentage of the total value apportioned to all 52134
taxing districts as the miles of wire owned by the company within 52135
the taxing district are to the total miles of wire owned by the 52136
company within this state; 52137

(2) In the case of ~~a telegraph,~~ an interexchange 52138
telecommunications, or a telephone company that does not own miles 52139
of wire in this state, the value apportioned to each taxing 52140
district shall be the same percentage of the total value 52141
apportioned to all taxing districts as the cost of the taxable 52142
property physically located in the taxing district is of the total 52143
cost of all taxable property physically located in this state. 52144

(B) In the case of a railroad company: 52145

(1) The taxable value of real and personal property not used 52146

in railroad operations shall be apportioned according to its 52147
situs; 52148

(2) The taxable value of personal property used in railroad 52149
operations shall be apportioned to each taxing district in 52150
proportion to the miles of track and trackage rights, weighted to 52151
reflect the relative use of such personal property in each taxing 52152
district; 52153

(3) The taxable value of real property used in railroad 52154
operations shall be apportioned to each taxing district in 52155
proportion to its relative value in each taxing district. 52156

(C)(1) Prior to tax year 2001, in the case of an electric 52157
company: 52158

(a) Seventy per cent of the taxable value of all production 52159
equipment and of all station equipment that is not production 52160
equipment shall be apportioned to the taxing district in which 52161
such property is physically located; and 52162

(b) The remaining value of such property, together with the 52163
value of all other taxable personal property, shall be apportioned 52164
to each taxing district in the per cent that the cost of all 52165
transmission and distribution property physically located in the 52166
taxing district is of the total cost of all transmission and 52167
distribution property physically located in this state. 52168

(c) If an electric company's taxable value for the current 52169
year includes the value of any production equipment at a plant at 52170
which the initial cost of the plant's production equipment 52171
exceeded one billion dollars, then prior to making the 52172
apportionments required for that company by division (C)(1)(a) and 52173
(b) of this section, the tax commissioner shall do the following: 52174

(i) Subtract four hundred twenty million dollars from the 52175
total taxable value of the production equipment at that plant for 52176
the current tax year. 52177

(ii) Multiply the difference thus obtained by a fraction, the numerator of which is the portion of the taxable value of that plant's production equipment included in the company's total value for the current tax year, and the denominator of which is the total taxable value of such equipment included in the total taxable value of all electric companies for such year;

(iii) Apportion the product thus obtained to taxing districts in the manner prescribed in division (C)(1)(b) of this section.

(iv) Deduct the amounts so apportioned from the taxable value of the company's production equipment at the plant, prior to making the apportionments required by divisions (C)(1)(a) and (b) of this section.

For purposes of division (C)(1)(c) of this section, "initial cost" applies only to production equipment of plants placed in commercial operation on or after January 1, 1987, and means the cost of all production equipment at a plant for the first year the plant's equipment was subject to taxation.

(2) For tax year 2001 and thereafter, in the case of an electric company:

(a) The taxable value of all production equipment shall be apportioned to the taxing district in which such property is physically located; and

(b) The value of taxable personal property, other than production equipment, shall be apportioned to each taxing district in the proportion that the cost of such other taxable personal property physically located in each taxing district is of the total cost of such other taxable personal property physically located in this state.

(D) In the case of all other public utilities, the value of the taxable personal property ~~to be apportioned~~ shall be

apportioned to each taxing district in the proportion to that the 52208
cost of the taxable personal property physically located in each 52209
taxing district is of the entire value of such total cost of all 52210
taxable personal property within physically located in this state. 52211

Sec. 5727.24. (A) For the purpose of providing revenue to 52212
meet the needs of the state, on and after May 1, 2000, an excise 52213
tax is hereby levied on the gross receipts of a natural gas 52214
company and on the gross receipts of a combined company from 52215
operating as a natural gas company. The tax shall be computed by 52216
multiplying the taxable gross receipts as determined under section 52217
5727.33 of the Revised Code by four and three-fourths per cent. A 52218
combined company shall be subject to this tax on any gross 52219
receipts derived from operating as a natural gas company, as 52220
determined under division (D) of section 5727.03 of the Revised 52221
Code, and, if applicable, shall be subject to the tax imposed by 52222
section 5727.30 of the Revised Code for all other gross receipts. 52223

(B)(1) For the purpose of providing revenue to meet the needs 52224
of the state, on and after July 1, 2003, an excise tax is hereby 52225
levied on the gross receipts of a pipe-line company. The tax shall 52226
be computed as follows: 52227

(a) Multiply all gross receipts received by a pipe-line 52228
company that are not related to the storage of natural gas or oil 52229
by the percentage of pipeline miles owned and used in this state 52230
by the pipe-line company to generate that revenue in proportion to 52231
that owned and used everywhere by the pipe-line company to 52232
generate that revenue; 52233

(b) Add to that any gross receipts received related to the 52234
storage of gas or oil in this state, including, but not limited 52235
to, charges for injection, storage, and withdrawal; 52236

(c) Multiply the sum of divisions (B)(1)(a) and (b) of this 52237
section by four and three-fourths per cent. 52238

(2) Gross receipts derived from the sale of natural gas or oil by a pipe-line company shall not be included in the pipe-line company's gross receipts under division (B)(1)(a) of this section. Such sales are subject to the sales or use tax, as appropriate, under Chapter 5739. or 5741. of the Revised Code.

(3) As used in division (B) of this section, "pipeline miles" means the pipeline miles reported by a pipe-line company in its annual report to the appropriate federal regulatory agency, or, if the pipe-line company does not file a federal report, to the public utilities commission of Ohio, for the year preceding the period for which a return is being filed under section 5727.25 of the Revised Code.

Sec. 5727.25. (A) Except as provided in division (B) of this section, within forty-five days after the last day of March, June, September, and December, each natural gas company ~~or,~~ combined company, or pipe-line company subject to the excise tax imposed by section 5727.24 of the Revised Code shall file a return with the treasurer of state, in such form as the tax commissioner prescribes, and pay the full amount of the tax due on its taxable gross receipts for the preceding calendar quarter, ~~except that the first payment of this tax shall be made on or before November 15, 2000, for the five month period of May 1, 2000, to September 30, 2000.~~ All payments made under this division shall be made by electronic funds transfer in accordance with section 5727.311 of the Revised Code.

(B) Any natural gas company ~~or,~~ combined company, or pipe-line company subject to the excise tax imposed by this section that has an annual tax liability for the preceding calendar year ending on the thirty-first day of December of less than three hundred twenty-five thousand dollars may elect to file an annual return with the treasurer of state, in such form as the

tax commissioner prescribes, for the next year. A company that 52270
elects to file an annual return for the calendar year shall file 52271
the return and remit the taxes due on its taxable gross receipts 52272
within forty-five days after the thirty-first day of December. The 52273
first payment of the tax under this division for a pipe-line 52274
company shall be made on or before February 14, ~~2001~~ 2004, for the 52275
period of ~~May~~ July 1, ~~2000~~ 2003, to December 31, ~~2000~~ 2003. The 52276
minimum tax for a natural gas company ~~or~~, combined company, or 52277
pipe-line company subject to this division shall be ~~fifty dollars~~ 52278
equal to the minimum tax imposed that year under division (E) of 52279
section 5733.06 of the Revised Code, and the company shall not be 52280
required to remit the tax due by electronic funds transfer. 52281

(C) A return required to be filed under division (A) or (B) 52282
of this section shall show the amount of tax due from the company 52283
for the period covered by the return and any other information as 52284
prescribed by the tax commissioner. A return shall be considered 52285
filed when received by the treasurer of state. The commissioner 52286
may extend the time for making and filing returns and paying the 52287
tax. 52288

(D) Any natural gas company ~~or~~, combined company, or 52289
pipe-line company that fails to file a return or pay the full 52290
amount of the tax due within the period prescribed under this 52291
section shall pay an additional charge of fifty dollars, or ten 52292
per cent of the tax required to be paid for the reporting period, 52293
whichever is greater. If any tax due is not paid timely in 52294
accordance with this section, the company liable for the tax shall 52295
pay interest, calculated at the rate per annum prescribed by 52296
section 5703.47 of the Revised Code, from the date the tax payment 52297
was due to the date of payment or to the date an assessment was 52298
issued, whichever occurs first. The tax commissioner may collect 52299
any additional charge or interest imposed by this section by 52300
assessment in the manner provided in section 5727.26 of the 52301

Revised Code. The commissioner may abate all or a portion of the 52302
additional charge and may adopt rules governing such abatements. 52303

(E) The taxes, additional charges, penalties, and interest 52304
collected under sections 5727.24 to 5727.29 of the Revised Code 52305
shall be credited in accordance with section 5727.45 of the 52306
Revised Code. 52307

Sec. 5727.26. (A) The tax commissioner may make an 52308
assessment, based on any information in the commissioner's 52309
possession, against any natural gas company ~~or~~, combined company, 52310
or pipe-line company that fails to file a return or pay any tax, 52311
interest, or additional charge as required by sections 5727.24 to 52312
5727.29 of the Revised Code. The commissioner shall give the 52313
company assessed written notice of the assessment in the manner 52314
provided in section 5703.37 of the Revised Code. With the notice, 52315
the commissioner shall provide instructions on how to petition for 52316
reassessment and request a hearing on the petition. A penalty of 52317
up to fifteen per cent may be added to all amounts assessed under 52318
this section. The tax commissioner may adopt rules providing for 52319
the imposition and remission of the penalty. 52320

(B) Unless the company assessed, within sixty days after 52321
service of the notice of assessment, files with the tax 52322
commissioner, either personally or by certified mail, a written 52323
petition signed by the company's authorized agent having knowledge 52324
of the facts, the assessment becomes final, and the amount of the 52325
assessment is due and payable from the company assessed to the 52326
treasurer of state. The petition shall indicate the objections of 52327
the company assessed, but additional objections may be raised in 52328
writing if received by the commissioner prior to the date shown on 52329
the final determination. 52330

If a petition for reassessment has been properly filed, the 52331
commissioner shall proceed under section 5703.60 of the Revised 52332

Code. 52333

(C) After an assessment becomes final, if any portion of the 52334
assessment, including accrued interest, remains unpaid, a 52335
certified copy of the tax commissioner's entry making the 52336
assessment final may be filed in the office of the clerk of the 52337
court of common pleas in the county in which the ~~natural-gas~~ 52338
~~company's or combined~~ company's principal place of business is 52339
located, or in the office of the clerk of the court of common 52340
pleas of Franklin county. 52341

Immediately upon the filing of the entry, the clerk shall 52342
enter judgment for the state against the company assessed in the 52343
amount shown on the entry. The judgment may be filed by the clerk 52344
in a loose-leaf book entitled, "special judgments for the public 52345
utility excise tax on natural gas ~~and~~ companies, combined 52346
companies, and pipe-line companies," and shall have the same 52347
effect as other judgments. Execution shall issue upon the judgment 52348
at the request of the tax commissioner, and all laws applicable to 52349
sales on execution shall apply to sales made under the judgment. 52350

The portion of the assessment not paid within sixty days 52351
after the day the assessment was issued shall bear interest at the 52352
rate per annum prescribed by section 5703.47 of the Revised Code 52353
from the day the tax commissioner issues the assessment until it 52354
is paid. Interest shall be paid in the same manner as the tax and 52355
may be collected by the issuance of an assessment under this 52356
section. 52357

(D) If the tax commissioner believes that collection of the 52358
tax will be jeopardized unless proceedings to collect or secure 52359
collection of the tax are instituted without delay, the 52360
commissioner may issue a jeopardy assessment against the company 52361
liable for the tax. Immediately upon the issuance of the jeopardy 52362
assessment, the commissioner shall file an entry with the clerk of 52363
the court of common pleas in the manner prescribed by division (C) 52364

of this section. Notice of the jeopardy assessment shall be served 52365
on the company assessed or the company's authorized agent in the 52366
manner provided in section 5703.37 of the Revised Code within five 52367
days of the filing of the entry with the clerk. The total amount 52368
assessed is immediately due and payable, unless the company 52369
assessed files a petition for reassessment in accordance with 52370
division (B) of this section and provides security in a form 52371
satisfactory to the commissioner and in an amount sufficient to 52372
satisfy the unpaid balance of the assessment. Full or partial 52373
payment of the assessment does not prejudice the commissioner's 52374
consideration of the petition for reassessment. 52375

(E) All interest collected by the tax commissioner under this 52376
section shall be paid to the treasurer of state, and when paid 52377
shall be considered revenue arising from the tax imposed by 52378
section 5727.24 of the Revised Code. 52379

(F) No assessment shall be made or issued against a natural 52380
gas company ~~or~~, combined company, or pipe-line company for the tax 52381
imposed by section 5727.24 of the Revised Code more than four 52382
years after the return date for the period in which the tax was 52383
reported, or more than four years after the return for the period 52384
was filed, whichever is later. 52385

Sec. 5727.27. Every natural gas company ~~or~~, combined company, 52386
or pipe-line company liable for the tax imposed by section 5727.24 52387
of the Revised Code shall keep complete and accurate records as 52388
prescribed by the tax commissioner. The records shall be preserved 52389
for four years after the return for the tax to which the records 52390
pertain is due or filed, whichever is later. The ~~natural gas~~ 52391
~~company or combined~~ company shall make the records available for 52392
inspection by the commissioner or the commissioner's agent, on the 52393
request of the commissioner or agent. 52394

Sec. 5727.28. (A) The treasurer of state shall refund to a 52395
natural gas company ~~or~~, combined company, or pipe-line company 52396
subject to the tax imposed by section 5727.24 of the Revised Code, 52397
the amount of tax paid illegally or erroneously, or paid on an 52398
illegal or erroneous assessment. Applications for a refund shall 52399
be filed with the tax commissioner, on a form prescribed by the 52400
commissioner, within four years of the illegal or erroneous 52401
payment of the tax. 52402

On the filing of the application, the commissioner shall 52403
determine the amount of refund to which the applicant is entitled. 52404
If the amount is not less than that claimed, the commissioner 52405
shall certify the amount to the director of budget and management 52406
and treasurer of state for payment from the tax refund fund under 52407
section 5703.052 of the Revised Code. If the amount is less than 52408
that claimed, the commissioner shall proceed in accordance with 52409
section 5703.70 of the Revised Code. 52410

If the application for refund is for taxes paid on an illegal 52411
or erroneous assessment, the commissioner shall include in the 52412
certified amount interest calculated at the rate per annum 52413
prescribed by section 5703.47 of the Revised Code from the date of 52414
overpayment to the date of the commissioner's certification. 52415

(B) If a natural gas company ~~or~~, combined company, or 52416
pipe-line company entitled to a refund of taxes under this 52417
section, or section 5703.70 of the Revised Code, is indebted to 52418
the state for any tax or fee administered by the tax commissioner 52419
that is paid to the state, or any charge, penalty, or interest 52420
arising from such a tax or fee, the amount refundable may be 52421
applied in satisfaction of that debt. If the amount refundable is 52422
less than the amount of the debt, it may be applied in partial 52423
satisfaction of the debt. If the amount refundable is greater than 52424
the amount of the debt, the amount remaining after satisfaction of 52425

the debt shall be refunded. 52426

(C) In lieu of granting a refund under division (A) or (B) of 52427
this section, the tax commissioner may allow a ~~natural gas company~~ 52428
~~or combined~~ company to claim a credit of the amount of the tax 52429
refund on the return for the period during which the tax became 52430
refundable. The commissioner may require the company to submit 52431
information to support a claim for a credit under this division, 52432
and the commissioner may disallow the credit if the information is 52433
not provided. 52434

Sec. 5727.30. (A) Except as provided in divisions (B) ~~and (C)~~ 52435
to (F) of this section, each public utility, except railroad 52436
companies, shall be subject to an annual excise tax, as provided 52437
by sections 5727.31 to 5727.62 of the Revised Code, for the 52438
privilege of owning property in this state or doing business in 52439
this state during the twelve-month period next succeeding the 52440
period upon which the tax is based. The tax shall be imposed 52441
against each such public utility that, on the first day of such 52442
twelve-month period, owns property in this state or is doing 52443
business in this state, and the lien for the tax, including any 52444
penalties and interest accruing thereon, shall attach on such day 52445
to the property of the public utility in this state. 52446

(B) An electric company's or a rural electric company's gross 52447
receipts received after April 30, 2001, are not subject to the 52448
annual excise tax imposed by this section. 52449

(C) A natural gas company's gross receipts received after 52450
April 30, 2000, are not subject to the annual excise tax imposed 52451
by this section. 52452

(D) A pipe-line company's gross receipts received after June 52453
30, 2003, are not subject to the annual excise tax imposed by this 52454
section. Notwithstanding any other provision of law, gross 52455
receipts received by a pipe-line company from May 1, 2002, to June 52456

30, 2003, shall be included in the pipe-line company's annual 52457
statement filed on or before August 1, 2003, which shall be the 52458
last statement or report filed under section 5727.31 of the 52459
Revised Code by a pipe-line company. The tax commissioner shall 52460
assess such receipts for that period as provided in section 52461
5727.38 of the Revised Code. A pipe-line company's receipts 52462
received after June 30, 2003, shall be subject to taxation as 52463
provided under sections 5727.24 to 5727.28 of the Revised Code. 52464

(E) A telephone company's gross receipts billed to customers 52465
after June 30, 2004, are not subject to the annual excise tax 52466
imposed by this section. Notwithstanding any other provision of 52467
law, gross receipts billed by a telephone company to customers 52468
prior to July 1, 2004, shall be included in the telephone 52469
company's annual statement filed on or before August 1, 2004, 52470
which shall be the last statement or report filed under section 52471
5727.31 of the Revised Code by a telephone company. A telephone 52472
company shall not deduct from its gross receipts included in that 52473
last statement any receipts it was unable to collect from its 52474
customers for the period of July 1, 2003, to June 30, 2004. 52475

(F) A water transportation company's gross receipts received 52476
after June 30, 2003, are not subject to the annual excise tax 52477
imposed by this section. Notwithstanding any other provision of 52478
law, gross receipts received by a water transportation company 52479
from May 1, 2002, to June 30, 2003, shall be included in the water 52480
transportation company's annual statement filed on or before 52481
August 1, 2003, which shall be the last statement or report filed 52482
under section 5727.31 of the Revised Code by a water 52483
transportation company. The tax commissioner shall assess such 52484
receipts for that period as provided in section 5727.38 of the 52485
Revised Code. 52486

Sec. 5727.32. (A) For the purpose of the tax imposed by 52487

section 5727.30 of the Revised Code, the statement required by	52488
section 5727.31 of the Revised Code shall contain:	52489
(1) The name of the company;	52490
(2) The nature of the company, whether a person, association, or corporation, and under the laws of what state or country organized;	52491 52492 52493
(3) The location of its principal office;	52494
(4) The name and post-office address of the president, secretary, auditor, treasurer, and superintendent or general manager;	52495 52496 52497
(5) The name and post-office address of the chief officer or managing agent of the company in this state;	52498 52499
(6) The amount of the excise taxes paid or to be paid with the reports made during the current calendar year as provided by section 5727.31 of the Revised Code;	52500 52501 52502
(7) In the case of telegraph and telephone companies:	52503
(a) The gross receipts from all sources, whether messages, telephone tolls, rentals, or otherwise, for business done within this state, including all sums earned or charged, whether actually received or not, for the year ending on the thirtieth day of June, and the company's proportion of gross receipts for business done by it within this state in connection with other companies, firms, corporations, persons, or associations, but excluding all of the following:	52504 52505 52506 52507 52508 52509 52510 52511
(i) All of the receipts derived wholly from interstate business or business done for or with the federal government;	52512 52513
(ii) The receipts of amounts billed on behalf of other entities;	52514 52515
(iii) The receipts from sales to other telephone companies for resale;	52516 52517

~~(iv) The receipts from sales to providers of telecommunications service for resale, receipts from incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight hundred type service, and receipts from private communications service.~~ 52518
52519
52520
52521
52522

~~As used in this division, "receipts from sales to other telephone companies for resale" and "receipts from sales to providers of telecommunications service for resale" include but are not limited to, receipts of carrier access charges. "Carrier access charges" means compensation paid to the taxpayer telephone company by another telephone company or by a provider of telecommunications service for the use of the taxpayer's facilities to originate or terminate telephone calls or telecommunications service.~~ 52523
52524
52525
52526
52527
52528
52529
52530
52531

~~(b) The total gross receipts for such period from business done within this state.~~ 52532
52533

~~(8) In the case of all public utilities subject to the tax imposed by section 5727.30 of the Revised Code, except telegraph and telephone companies:~~ 52534
52535
52536

(a) The gross receipts of the company, actually received, from all sources for business done within this state for the year next preceding the first day of May, including the company's proportion of gross receipts for business done by it within this state in connection with other companies, firms, corporations, persons, or associations, but excluding ~~all~~ both of the following: 52537
52538
52539
52540
52541
52542

(i) Receipts from interstate business or business done for the federal government; 52543
52544

(ii) Receipts from sales to another public utility for resale, provided such other public utility is subject to the tax levied by section 5727.24 or 5727.30 of the Revised Code; 52545
52546
52547

~~(iii) Receipts from the transmission or delivery of electricity to or for a rural electric company, provided that the electricity that has been so transmitted or delivered is for resale by the rural electric company. This division does not apply to tax years 2002 and thereafter.~~ 52548
52549
52550
52551
52552

~~(iv) Receipts of an electric company, derived from the provision of electricity and other services to a qualified former owner of the production facilities that generated the electricity from which those receipts were derived. This division does not apply to tax years 2002 and thereafter. As used in this division, a "qualified former owner" means a person who meets both of the following conditions:~~ 52553
52554
52555
52556
52557
52558
52559

~~(I) On or before October 11, 1991, the person had sold to an electric company part of the production facility at which the electricity is generated, and, for at least twenty years prior to that sale, the facility was used to generate electricity, but it was not owned in whole or in part during that period by an electric company.~~ 52560
52561
52562
52563
52564
52565

~~(II) At the time the electric company provided the electricity or other services for which the exclusion is claimed, the person, or a successor or assign of the person, owned not less than twenty per cent of the production facility and the rights to not less than twenty per cent of the production of that facility; and the person, or a successor or assign of the person, engaged primarily in a business other than providing electricity to others.~~ 52566
52567
52568
52569
52570
52571
52572
52573

~~(v) Receipts of a combined company derived from operating as a natural gas company that is subject to the tax imposed by section 5727.24 of the Revised Code.~~ 52574
52575
52576

~~(b) The total gross receipts of the company, for the year next preceding the first day of May, in this state from business~~ 52577
52578

done within the state.	52579
(B) The reports required by section 5727.31 of the Revised Code shall contain:	52580
(1) The name and principal mailing address of the company;	52581
(2) The total amount of the gross receipts excise taxes charged or levied as based upon its last preceding annual statement filed prior to the first day of January of the year in which such report is filed;	52582
(3) The amount of the excise taxes due with the report as provided by section 5727.31 of the Revised Code.	52583
Sec. 5727.33. (A) For the purpose of computing the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code, the entire gross receipts actually received from all sources for business done within this state are taxable gross receipts, excluding the receipts described in divisions (B), (C), <u>and (D)</u> , and (E) of this section. The gross receipts for the tax year of each telegraph and telephone company shall be computed for the period of the first day of July prior to the tax year to the thirtieth day of June of the tax year. The gross receipts of each <u>pipe-line company or</u> natural gas company, including a combined company's taxable gross receipts attributed to a natural gas company activity, shall be computed in the manner required by section 5727.25 of the Revised Code. The gross receipts for the tax year of any other public utility subject to section 5727.30 of the Revised Code shall be computed for the period of the first day of May prior to the tax year to the thirtieth day of April of the tax year.	52584
(B) In ascertaining and determining the gross receipts of each public utility subject to this section, the following gross receipts are excluded:	52585
	52586
	52587
	52588
	52589
	52590
	52591
	52592
	52593
	52594
	52595
	52596
	52597
	52598
	52599
	52600
	52601
	52602
	52603
	52604
	52605
	52606
	52607
	52608

(1) All receipts derived wholly from interstate business;	52609
(2) All receipts derived wholly from business done for or with the federal government;	52610 52611
(3) All receipts derived wholly from the transmission or delivery of electricity to or for a rural electric company, provided that the electricity that has been so transmitted or delivered is for resale by the rural electric company. This division does not apply to tax years 2002 and thereafter.	52612 52613 52614 52615 52616
(4) All receipts from the sale of merchandise;	52617
(5) (4) All receipts from sales to other public utilities, except railroad, telegraph, and telephone companies, for resale, provided the other public utility is subject to the tax levied by section 5727.24 or 5727.30 of the Revised Code.	52618 52619 52620 52621
(C) In ascertaining and determining the gross receipts of a telephone company, the following gross receipts are excluded:	52622 52623
(1) Receipts of amounts billed on behalf of other entities;	52624
(2) Receipts from sales to other telephone companies for resale, as defined in division (A)(7) of section 5727.32 of the Revised Code;	52625 52626 52627
(3) Receipts from incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight hundred type service;	52628 52629 52630
(4) Receipts from private communications service as described in division (AA)(2) of section 5739.01 of the Revised Code;	52631 52632
(5) Receipts from sales to providers of telecommunications service for resale, as defined in division (A)(7) of section 5727.32 of the Revised Code.	52633 52634 52635
(D) In ascertaining and determining the gross receipts of an electric company, receipts derived from the provision of	52636 52637

~~electricity and other services to a qualified former owner of the 52638
production facilities that generated the electricity from which 52639
those receipts were derived are excluded. This division does not 52640
apply to tax years 2002 and thereafter. As used in this division, 52641
a "qualified former owner" means a person who meets both of the 52642
following conditions: 52643~~

~~(1) On or before October 11, 1991, the person had sold to an 52644
electric company part of the production facility at which the 52645
electricity is generated, and, for at least twenty years prior to 52646
that sale, the facility was used to generate electricity, but it 52647
was not owned in whole or part during that period by an electric 52648
company. 52649~~

~~(2) At the time the electric company provided the electricity 52650
or other services for which the exclusion is claimed, the person, 52651
or a successor or assign of the person, owned not less than a 52652
twenty per cent ownership of the production facility and the 52653
rights to not less than twenty per cent of the production of that 52654
facility. 52655~~

~~(E)(C) In ascertaining and determining the gross receipts of 52656
a natural gas company, receipts billed on behalf of other entities 52657
are excluded. The tax imposed by section 5729.811 of the Revised 52658
Code, along with transportation and billing and collection fees 52659
charged to other entities, shall be included in the gross receipts 52660
of a natural gas company. 52661~~

~~(F)(D) In ascertaining and determining the gross receipts of 52662
a combined company subject to the tax imposed by section 5727.30 52663
of the Revised Code, all receipts derived from operating as a 52664
natural gas company that are subject to the tax imposed by section 52665
5727.24 of the Revised Code are excluded. 52666~~

~~(G)(E) Except as provided in division (H)(F) of this section, 52667
the amount ascertained by the commissioner under this section, 52668~~

less a deduction of twenty-five thousand dollars, shall be the 52669
taxable gross receipts of such companies for business done within 52670
this state for that year. 52671

~~(H)~~(F) The amount ascertained under this section, less the 52672
following deduction, shall be the taxable gross receipts of a 52673
natural gas company or combined company subject to the tax imposed 52674
by section 5727.24 of the Revised Code for business done within 52675
this state: 52676

(1) For a natural gas company that files quarterly returns of 52677
the tax imposed by section 5727.24 of the Revised Code, six 52678
thousand two hundred fifty dollars for each quarterly return; 52679

(2) For a natural gas company that files an annual return of 52680
the tax imposed by section 5727.24 of the Revised Code, 52681
twenty-five thousand dollars for each annual return; 52682

(3) For a combined company, twenty-five thousand dollars on 52683
the annual statement filed under section 5727.31 of the Revised 52684
Code. A combined company shall not be entitled to a deduction in 52685
computing gross receipts subject to the tax imposed by section 52686
5727.24 of the Revised Code. 52687

Sec. 5727.38. On or before the first Monday of November, 52688
annually, the tax commissioner shall assess an excise tax against 52689
each public utility subject to the excise tax under section 52690
5727.30 of the Revised Code. The tax shall be computed by 52691
multiplying the taxable gross receipts as determined by the 52692
commissioner under section 5727.33 of the Revised Code by ~~six and~~ 52693
~~three-fourths per cent in the case of pipe line companies, and~~ 52694
~~four and three-fourths per cent in the case of all other~~ 52695
~~companies.~~ The minimum tax for any such company for owning 52696
property or doing business in this state shall ~~be fifty dollars~~ 52697
equal the minimum tax imposed that year under division (E) of 52698
section 5733.06 of the Revised Code. The assessment shall be 52699

certified to the taxpayer and treasurer of state. 52700

Sec. 5727.56. Any public utility whose articles of 52701
incorporation or license certificate to do or transact business in 52702
this state has expired or has been canceled or revoked by the 52703
secretary of state, as provided by law for failure to make any 52704
report or return or to pay any tax or fee, upon payment to the 52705
secretary of state of any additional fees and penalties required 52706
to be paid to ~~him~~ the secretary of state, and upon the filing with 52707
the secretary of state of a certificate from the tax commissioner 52708
that it has complied with all the requirements of law as to 52709
franchise or excise tax reports and paid all franchise or excise 52710
taxes, fees, or penalties due thereon for every year of its 52711
delinquency, and upon the payment to the secretary of state of an 52712
additional fee of ten dollars, shall be reinstated and again 52713
entitled to exercise its rights, privileges, and franchises in 52714
this state, and the secretary of state shall cancel the entry of 52715
cancellation or expiration to exercise its rights, privileges, and 52716
franchises. If the reinstatement is not made within one year from 52717
the date of the cancellation of its articles of incorporation or 52718
date of the cancellation or expiration of its license to do 52719
business, and it appears that articles of incorporation or license 52720
certificate have been issued to a corporation of the same or 52721
similar name, the applicant for reinstatement shall be required by 52722
the secretary of state, as a condition prerequisite to such 52723
reinstatement, to amend its articles by changing its name. A 52724
certificate of reinstatement may be filed in the county recorder's 52725
office of any county in the state, for which the recorder shall 52726
charge and collect a base fee of three dollars for services and a 52727
housing trust fund fee of three dollars pursuant to section 317.36 52728
of the Revised Code. 52729

If a domestic public utility applying for reinstatement has 52730
not previously designated an agent upon whom process may be served 52731

as required by section 1701.07 of the Revised Code, such public 52732
utility shall at the time of reinstatement and as a prerequisite 52733
thereto designate an agent in accordance with such section. 52734

Any officer, shareholder, creditor, or receiver of any such 52735
public utility may at any time take all steps required by this 52736
section to effect such reinstatement, and in such case the 52737
designation of an agent upon whom process may be served shall not 52738
be a prerequisite to the reinstatement of the public utility. 52739

Sec. 5728.04. (A) It is unlawful for any person to operate a 52740
commercial car with three or more axles when operated alone or as 52741
part of a commercial tandem, a commercial car with two axles that 52742
is to be operated as part of a commercial tandem with a gross 52743
vehicle weight or a registered gross vehicle weight exceeding 52744
twenty-six thousand pounds, or a commercial tractor when operated 52745
alone or as part of a commercial tractor combination or commercial 52746
tandem on a public highway ~~without~~ under either of the following 52747
circumstances: 52748

(1) Without a valid fuel use permit for such commercial car 52749
or commercial tractor. 52750

(2) With a suspended or surrendered fuel use permit for such 52751
commercial car or commercial tractor. 52752

(B) The judge or magistrate of any court finding any person 52753
guilty of unlawfully operating a commercial car or commercial 52754
tractor as provided for in this section shall immediately notify 52755
the tax commissioner of such violation and shall transmit to the 52756
tax commissioner the name and the permanent address of the owner 52757
of the commercial car or commercial tractor operated in violation 52758
of this section, the registration number, the state of 52759
registration, and the certificate of title number of the 52760
commercial car or commercial tractor. The commercial car or 52761
commercial tractor involved in a violation of division (A)(1) or 52762

(2) of this section may be detained until a valid fuel use permit is obtained or reinstated. 52763
52764

Sec. 5728.99. (A)(1) Except as provided in division (A)(2) of this section, whoever violates any provision of sections 5728.01 to 5728.14 of the Revised Code, or any rule promulgated by the tax commissioner under the authority of any provision of those sections, for the violation of which no penalty is provided elsewhere, shall be fined not less than twenty-five nor more than one hundred dollars. 52765
52766
52767
52768
52769
52770
52771

(2) Division (A)(1) of this section does not apply to the filing of any false or fraudulent return, application, or permit under section 5728.02, 5728.03, or 5728.08 of the Revised Code. The filing of any false or fraudulent return, application, or permit under any of those sections is a violation of section 2921.13 of the Revised Code. 52772
52773
52774
52775
52776
52777

(B)(1) Whoever violates division (A)(1) of section 5728.04 of the Revised Code is guilty of a misdemeanor of the fourth degree. 52778
52779

(2) Whoever violates division (A)(2) of section 5728.04 of the Revised Code is guilty of a felony of the fifth degree. 52780
52781

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 52782
52783
52784
52785
52786
52787
52788
52789
52790
52791
52792

organized under Chapter 1729. of the Revised Code, under the laws 52793
of any state or country other than this state, except as provided 52794
in sections 5733.09 and 5733.10 of the Revised Code, for the 52795
privilege of doing business in this state, owning or using a part 52796
or all of its capital or property in this state, holding a 52797
certificate of compliance with the laws of this state authorizing 52798
it to do business in this state, or otherwise having nexus in or 52799
with this state under the Constitution of the United States, 52800
during the calendar year in which that amount is payable. 52801

(B) A corporation is subject to the tax imposed by section 52802
5733.06 of the Revised Code for each calendar year that it is so 52803
organized, doing business, owning or using a part or all of its 52804
capital or property, holding a certificate of compliance, or 52805
otherwise having nexus in or with this state under the 52806
Constitution of the United States, on the first day of January of 52807
that calendar year. 52808

(C) Any corporation subject to this chapter that is not 52809
subject to the federal income tax shall file its returns and 52810
compute its tax liability as required by this chapter in the same 52811
manner as if that corporation were subject to the federal income 52812
tax. 52813

(D) For purposes of this chapter, a federally chartered 52814
financial institution shall be deemed to be organized under the 52815
laws of the state within which its principal office is located. 52816

(E) ~~Any~~ For purposes of this chapter, any person, as defined 52817
in section 5701.01 of the Revised Code, shall be treated as a 52818
corporation ~~for purposes of this chapter~~ if the person is 52819
classified for federal income tax purposes as an association 52820
taxable as a corporation, and an equity interest in the person 52821
shall be treated as capital stock of the person. 52822

(F) For the purposes of this chapter, "disregarded entity" 52823

has the same meaning as in division (D) of section 5745.01 of the Revised Code. 52824
52825

(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. 52826
52827
52828
52829
52830

(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. 52831
52832
52833
52834
52835
52836
52837

(3) The disregarded entity's payroll, property, and sales factors shall be included in the person's factors. 52838
52839

Sec. 5733.04. As used in this chapter: 52840

(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. 52841
52842
52843
52844
52845
52846
52847
52848
52849

(B) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code. 52850
52851

(C) "Resident" means a corporation organized under the laws of this state. 52852
52853

(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) 52885
of this section. The amount of such net operating loss, as 52886
determined under the allocation and apportionment provisions of 52887
section 5733.051 and division (B) of section 5733.05 of the 52888
Revised Code for the year in which the net operating loss occurs, 52889
shall be deducted from net income, as determined under the 52890
allocation and apportionment provisions of section 5733.051 and 52891
division (B) of section 5733.05 of the Revised Code, to the extent 52892
necessary to reduce net income to zero with the remaining unused 52893
portion of the deduction, if any, carried forward to the remaining 52894
years of the designated carryover period as described in division 52895
(I)(1)(b) of this section, or until fully utilized, whichever 52896
occurs first. 52897

(b) For losses incurred in taxable years ending on or before 52898
December 31, 1981, the designated carryover period shall be the 52899
five consecutive taxable years after the taxable year in which the 52900
net operating loss occurred. For losses incurred in taxable years 52901
ending on or after January 1, 1982, and beginning before August 6, 52902
1997, the designated carryover period shall be the fifteen 52903
consecutive taxable years after the taxable year in which the net 52904
operating loss occurs. For losses incurred in taxable years 52905
beginning on or after August 6, 1997, the designated carryover 52906
period shall be the twenty consecutive taxable years after the 52907
taxable year in which the net operating loss occurs. 52908

(c) The tax commissioner may require a taxpayer to furnish 52909
any information necessary to support a claim for deduction under 52910
division (I)(1)(a) of this section and no deduction shall be 52911
allowed unless the information is furnished. 52912

(2) Deduct any amount included in net income by application 52913
of section 78 or 951 of the Internal Revenue Code, amounts 52914
received for royalties, technical or other services derived from 52915
sources outside the United States, and dividends received from a 52916

subsidiary, associate, or affiliated corporation that neither 52917
transacts any substantial portion of its business nor regularly 52918
maintains any substantial portion of its assets within the United 52919
States. For purposes of determining net foreign source income 52920
deductible under division (I)(2) of this section, the amount of 52921
gross income from all such sources other than dividend income and 52922
income derived by application of section 78 or 951 of the Internal 52923
Revenue Code shall be reduced by: 52924

(a) The amount of any reimbursed expenses for personal 52925
services performed by employees of the taxpayer for the 52926
subsidiary, associate, or affiliated corporation; 52927

(b) Ten per cent of the amount of royalty income and 52928
technical assistance fees; 52929

(c) Fifteen per cent of the amount of all other income. 52930

The amounts described in divisions (I)(2)(a) to (c) of this 52931
section are deemed to be the expenses attributable to the 52932
production of deductible foreign source income unless the taxpayer 52933
shows, by clear and convincing evidence, less actual expenses, or 52934
the tax commissioner shows, by clear and convincing evidence, more 52935
actual expenses. 52936

(3) ~~Add~~ For taxable years ending prior to the effective date 52937
of this amendment, add any loss or deduct any gain resulting from 52938
the sale, exchange, or other disposition of a capital asset, or an 52939
asset described in section 1231 of the Internal Revenue Code, to 52940
the extent that such loss or gain occurred prior to the first 52941
taxable year on which the tax provided for in section 5733.06 of 52942
the Revised Code is computed on the corporation's net income. For 52943
purposes of division (I)(3) of this section, the amount of the 52944
prior loss or gain shall be measured by the difference between the 52945
original cost or other basis of the asset and the fair market 52946
value as of the beginning of the first taxable year on which the 52947

tax provided for in section 5733.06 of the Revised Code is 52948
computed on the corporation's net income. At the option of the 52949
taxpayer, the amount of the prior loss or gain may be a percentage 52950
of the gain or loss, which percentage shall be determined by 52951
multiplying the gain or loss by a fraction, the numerator of which 52952
is the number of months from the acquisition of the asset to the 52953
beginning of the first taxable year on which the fee provided in 52954
section 5733.06 of the Revised Code is computed on the 52955
corporation's net income, and the denominator of which is the 52956
number of months from the acquisition of the asset to the sale, 52957
exchange, or other disposition of the asset. The adjustments 52958
described in this division do not apply to any gain or loss where 52959
the gain or loss is recognized by a qualifying taxpayer, as 52960
defined in section 5733.0510 of the Revised Code, with respect to 52961
a qualifying taxable event, as defined in that section. 52962

(4) Deduct the dividend received deduction provided by 52963
section 243 of the Internal Revenue Code. 52964

(5) Deduct any interest or interest equivalent on public 52965
obligations and purchase obligations to the extent included in 52966
federal taxable income. As used in divisions (I)(5) and (6) of 52967
this section, "public obligations," "purchase obligations," and 52968
"interest or interest equivalent" have the same meanings as in 52969
section 5709.76 of the Revised Code. 52970

(6) Add any loss or deduct any gain resulting from the sale, 52971
exchange, or other disposition of public obligations to the extent 52972
included in federal taxable income. 52973

(7) To the extent not otherwise allowed, deduct any dividends 52974
or distributions received by a taxpayer from a public utility, 52975
excluding an electric company, or a combined company, a water 52976
transportation company for tax years 2004 and thereafter, or a 52977
telephone company for tax years 2005 and thereafter, if the 52978
taxpayer owns at least eighty per cent of the issued and 52979

outstanding common stock of the public utility. As used in 52980
division (I)(7) of this section, "public utility" means a public 52981
utility as defined in Chapter 5727. of the Revised Code, whether 52982
or not the public utility is doing business in the state. 52983

(8) To the extent not otherwise allowed, deduct any dividends 52984
received by a taxpayer from an insurance company, if the taxpayer 52985
owns at least eighty per cent of the issued and outstanding common 52986
stock of the insurance company. As used in division (I)(8) of this 52987
section, "insurance company" means an insurance company that is 52988
taxable under Chapter 5725. or 5729. of the Revised Code. 52989

(9) Deduct expenditures for modifying existing buildings or 52990
structures to meet American national standards institute standard 52991
A-117.1-1961 (R-1971), as amended; provided, that no deduction 52992
shall be allowed to the extent that such deduction is not 52993
permitted under federal law or under rules of the tax 52994
commissioner. Those deductions as are allowed may be taken over a 52995
period of five years. The tax commissioner shall adopt rules under 52996
Chapter 119. of the Revised Code establishing reasonable 52997
limitations on the extent that expenditures for modifying existing 52998
buildings or structures are attributable to the purpose of making 52999
the buildings or structures accessible to and usable by physically 53000
handicapped persons. 53001

(10) ~~Deduct~~ For taxable years ending prior to the effective 53002
date of this amendment, deduct the amount of wages and salaries, 53003
if any, not otherwise allowable as a deduction but that would have 53004
been allowable as a deduction in computing federal taxable income 53005
before operating loss deduction and special deductions for the 53006
taxable year, had the targeted jobs credit allowed and determined 53007
under sections 38, 51, and 52 of the Internal Revenue Code not 53008
been in effect. 53009

(11) Deduct net interest income on obligations of the United 53010
States and its territories and possessions or of any authority, 53011

commission, or instrumentality of the United States to the extent 53012
the laws of the United States prohibit inclusion of the net 53013
interest for purposes of determining the value of the taxpayer's 53014
issued and outstanding shares of stock under division (B) of 53015
section 5733.05 of the Revised Code. As used in division (I)(11) 53016
of this section, "net interest" means interest net of any expenses 53017
taken on the federal income tax return that would not have been 53018
allowed under section 265 of the Internal Revenue Code if the 53019
interest were exempt from federal income tax. 53020

(12)(a) Except as set forth in division (I)(12)(d) of this 53021
section, to the extent not included in computing the taxpayer's 53022
federal taxable income before operating loss deduction and special 53023
deductions, add gains and deduct losses from direct or indirect 53024
sales, exchanges, or other dispositions, made by a related entity 53025
who is not a taxpayer, of the taxpayer's indirect, beneficial, or 53026
constructive investment in the stock or debt of another entity, 53027
unless the gain or loss has been included in computing the federal 53028
taxable income before operating loss deduction and special 53029
deductions of another taxpayer with a more closely related 53030
investment in the stock or debt of the other entity. The amount of 53031
gain added or loss deducted shall not exceed the product obtained 53032
by multiplying such gain or loss by the taxpayer's proportionate 53033
share, directly, indirectly, beneficially, or constructively, of 53034
the outstanding stock of the related entity immediately prior to 53035
the direct or indirect sale, exchange, or other disposition. 53036

(b) ~~Except as set forth in division (I)(12)(e) of this~~ 53037
~~section, to~~ To the extent not included in computing the taxpayer's 53038
federal taxable income before operating loss deduction and special 53039
deductions, add gains and deduct losses from direct or indirect 53040
sales, exchanges, or other dispositions made by a related entity 53041
who is not a taxpayer, of intangible property other than stock, 53042
securities, and debt, if such property was owned, or used in whole 53043

or in part, at any time prior to or at the time of the sale, 53044
exchange, or disposition by either the taxpayer or by a related 53045
entity that was a taxpayer at any time during the related entity's 53046
ownership or use of such property, unless the gain or loss has 53047
been included in computing the federal taxable income before 53048
operating loss deduction and special deductions of another 53049
taxpayer with a more closely related ownership or use of such 53050
intangible property. The amount of gain added or loss deducted 53051
shall not exceed the product obtained by multiplying such gain or 53052
loss by the taxpayer's proportionate share, directly, indirectly, 53053
beneficially, or constructively, of the outstanding stock of the 53054
related entity immediately prior to the direct or indirect sale, 53055
exchange, or other disposition. 53056

(c) As used in division (I)(12) of this section, "related 53057
entity" means those entities described in divisions (I)(12)(c)(i) 53058
to (iii) of this section: 53059

(i) An individual stockholder, or a member of the 53060
stockholder's family enumerated in section 318 of the Internal 53061
Revenue Code, if the stockholder and the members of the 53062
stockholder's family own, directly, indirectly, beneficially, or 53063
constructively, in the aggregate, at least fifty per cent of the 53064
value of the taxpayer's outstanding stock; 53065

(ii) A stockholder, or a stockholder's partnership, estate, 53066
trust, or corporation, if the stockholder and the stockholder's 53067
partnerships, estates, trusts, and corporations own directly, 53068
indirectly, beneficially, or constructively, in the aggregate, at 53069
least fifty per cent of the value of the taxpayer's outstanding 53070
stock; 53071

(iii) A corporation, or a party related to the corporation in 53072
a manner that would require an attribution of stock from the 53073
corporation to the party or from the party to the corporation 53074
under division (I)(12)(c)(iv) of this section, if the taxpayer 53075

owns, directly, indirectly, beneficially, or constructively, at 53076
least fifty per cent of the value of the corporation's outstanding 53077
stock. 53078

(iv) The attribution rules of section 318 of the Internal 53079
Revenue Code apply for purposes of determining whether the 53080
ownership requirements in divisions (I)(12)(c)(i) to (iii) of this 53081
section have been met. 53082

(d) For purposes of the adjustments required by division 53083
(I)(12)(a) of this section, the term "investment in the stock or 53084
debt of another entity" means only those investments where the 53085
taxpayer and the taxpayer's related entities directly, indirectly, 53086
beneficially, or constructively own, in the aggregate, at any time 53087
during the twenty-four month period commencing one year prior to 53088
the direct or indirect sale, exchange, or other disposition of 53089
such investment at least fifty per cent or more of the value of 53090
either the outstanding stock or such debt of such other entity. 53091

~~(e) For purposes of the adjustments required by division 53092
(I)(12)(b) of this section, the term "related entity" excludes all 53093
of the following: 53094~~

~~(i) Foreign corporations as defined in section 7701 of the 53095
Internal Revenue Code; 53096~~

~~(ii) Foreign partnerships as defined in section 7701 of the 53097
Internal Revenue Code; 53098~~

~~(iii) Corporations, partnerships, estates, and trusts created 53099
or organized in or under the laws of the Commonwealth of Puerto 53100
Rico or any possession of the United States; 53101~~

~~(iv) Foreign estates and foreign trusts as defined in section 53102
7701 of the Internal Revenue Code. 53103~~

~~The exclusions described in divisions (I)(12)(c)(i) to (iv) 53104
of this section do not apply if the corporation, partnership, 53105~~

~~estate, or trust is described in any one of divisions (C)(1) to 53106~~
~~(5) of section 5733.042 of the Revised Code. 53107~~

~~(f)~~ Nothing in division (I)(12) of this section shall require 53108
or permit a taxpayer to add any gains or deduct any losses 53109
described in divisions (I)(12)~~(f)~~(e)(i) and (ii) of this section: 53110

(i) Gains or losses recognized for federal income tax 53111
purposes by an individual, estate, or trust without regard to the 53112
attribution rules described in division (I)(12)(c) of this 53113
section; 53114

(ii) A related entity's gains or losses described in division 53115
(I)(12)(b) of this section if the taxpayer's ownership of or use 53116
of such intangible property was limited to a period not exceeding 53117
nine months and was attributable to a transaction or a series of 53118
transactions executed in accordance with the election or elections 53119
made by the taxpayer or a related entity pursuant to section 338 53120
of the Internal Revenue Code. 53121

(13) Any adjustment required by section 5733.042 of the 53122
Revised Code. 53123

(14) Add any amount claimed as a credit under section 53124
5733.0611 of the Revised Code to the extent that such amount 53125
satisfies either of the following: 53126

(a) It was deducted or excluded from the computation of the 53127
corporation's taxable income before operating loss deduction and 53128
special deductions as required to be reported for the 53129
corporation's taxable year under the Internal Revenue Code; 53130

(b) It resulted in a reduction of the corporation's taxable 53131
income before operating loss deduction and special deductions as 53132
required to be reported for any of the corporation's taxable years 53133
under the Internal Revenue Code. 53134

(15) ~~Deduct~~ For taxable years ending prior to the effective 53135

date of this amendment, deduct the amount contributed by the 53136
taxpayer to an individual development account program established 53137
by a county department of job and family services pursuant to 53138
sections 329.11 to 329.14 of the Revised Code for the purpose of 53139
matching funds deposited by program participants. On request of 53140
the tax commissioner, the taxpayer shall provide any information 53141
that, in the tax commissioner's opinion, is necessary to establish 53142
the amount deducted under division (I)(15) of this section. 53143

(16) Any adjustment required by section 5733.0510 of the 53144
Revised Code. 53145

(17)(a) Add five-sixths of the amount of depreciation expense 53146
allowed under subsection (k) of section 168 of the Internal 53147
Revenue Code, including a person's proportionate or distributive 53148
share of the amount of depreciation expense allowed by that 53149
subsection to any pass-through entity in which the person has 53150
direct or indirect ownership. The tax commissioner, under 53151
procedures established by the commissioner, may waive the add-back 53152
related to a pass-through entity if the person owns, directly or 53153
indirectly, less than five per cent of the pass-through entity. 53154

(b) Nothing in division (I)(17) of this section shall be 53155
construed to adjust or modify the adjusted basis of any asset. 53156

(c) To the extent the add-back is attributable to property 53157
generating income or loss allocable under section 5733.051 of the 53158
Revised Code, the add-back shall be allocated to the same location 53159
as the income or loss generated by that property. Otherwise, the 53160
add-back shall be apportioned, subject to division (B)(2)(d) of 53161
section 5733.05 of the Revised Code. 53162

(18)(a) If a person is required to make the add-back under 53163
division (I)(17)(a) of this section for a tax year, the person 53164
shall deduct one-fifth of the amount added back for each of the 53165
succeeding five tax years. 53166

(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.

(19) Add, to the extent deducted in computing federal taxable income, taxes on or measured by income that are paid to any jurisdiction other than this state and its political subdivisions.

(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)~~(D) 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. 53227

(b)(i) As used in division (L) of this section, "intangible 53228
asset" includes, but is not limited to, the corporation's direct 53229
interest in each pass-through entity only if at all times during 53230
the corporation's taxable year ending prior to the first day of 53231
the tax year the corporation's and the corporation's related 53232
members' combined direct and indirect interests in the capital or 53233
profits of such pass-through entity do not exceed fifty per cent. 53234
If the corporation's interest in the pass-through entity is an 53235
intangible asset for that taxable year, then the distributive 53236
share of any income from the pass-through entity shall be income 53237
from an intangible asset for that taxable year. 53238

(ii) If a corporation's and the corporation's related 53239
members' combined direct and indirect interests in the capital or 53240
profits of a pass-through entity exceed fifty per cent at any time 53241
during the corporation's taxable year ending prior to the first 53242
day of the tax year, "intangible asset" does not include the 53243
corporation's direct interest in the pass-through entity, and the 53244
corporation shall include in its assets its proportionate share of 53245
the assets of any such pass-through entity and shall include in 53246
its gross income its distributive share of the gross income of 53247
such pass-through entity in the same form as was earned by the 53248
pass-through entity. 53249

(iii) A pass-through entity's direct or indirect 53250
proportionate share of any other pass-through entity's assets 53251
shall be included for the purpose of computing the corporation's 53252
proportionate share of the pass-through entity's assets under 53253
division (L)(2)(b)(ii) of this section, and such pass-through 53254
entity's distributive share of any other pass-through entity's 53255
gross income shall be included for purposes of computing the 53256
corporation's distributive share of the pass-through entity's 53257
gross income under division (L)(2)(b)(ii) of this section. 53258

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), 53259
(2)(a)(i), and (2)(a)(ii) of this section, real property is 53260
described in division (L)(2)(c) of this section only if all of the 53261
following conditions are present at all times during the taxable 53262
year ending prior to the first day of the tax year: 53263

(i) The real property serves as the headquarters of the 53264
corporation's trade or business, or is the place from which the 53265
corporation's trade or business is principally managed or 53266
directed; 53267

(ii) Not more than ten per cent of the value of the real 53268
property and not more than ten per cent of the square footage of 53269
the building or buildings that are part of the real property is 53270
used, made available, or occupied for the purpose of providing, 53271
acquiring, transferring, selling, or disposing of tangible 53272
property or services in the normal course of business to persons 53273
other than related members, the corporation's employees and their 53274
families, and such related members' employees and their families. 53275

(d) As used in division (L) of this section, "related member" 53276
has the same meaning as in ~~division (A)(6)~~ of section 5733.042 of 53277
the Revised Code without regard to division (B) of that section. 53278

(3) The percentages described in division (L)(1)(a) of this 53279
section shall be equal to the quarterly average of those 53280
percentages as calculated during the corporation's taxable year 53281
ending prior to the first day of the tax year. 53282

(4) With respect to the election described in division 53283
(L)(1)(e) of this section: 53284

(a) The election need not accompany a timely filed report; 53285

(b) The election need not accompany the report; rather, the 53286
election may accompany a subsequently filed but timely application 53287
for refund and timely amended report, or a subsequently filed but 53288

timely petition for reassessment;	53289
(c) The election is not irrevocable;	53290
(d) The election applies only to the tax year specified by the corporation;	53291 53292
(e) The corporation's related members comply with division (L)(1)(d) of this section.	53293 53294
Nothing in division (L)(4) of this section shall be construed to extend any statute of limitations set forth in this chapter.	53295 53296
(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, one of <u>which owns or controls, directly or indirectly, more than fifty</u> <u>per cent of the capital stock with voting rights of one or more of</u> <u>the other corporations, or has more than fifty per cent of its</u> <u>capital stock with voting rights owned or controlled, directly or</u> <u>indirectly, by one of the other corporations or by related</u> <u>interests that own or control, directly or indirectly, more than</u> <u>fifty per cent of the capital stock with voting rights of one or</u> <u>more of the other corporations.</u>	53297 53298 53299 53300 53301 53302 53303 53304 53305 53306 53307
(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.	53308 53309 53310
(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.	53311 53312 53313 53314 53315 53316 53317
(P) "Electric company," and "combined company," <u>telephone</u>	53318

company," and "water transportation company" have the same 53319
meanings as in section 5727.01 of the Revised Code. 53320

(O) "Business income" means income arising from transactions, 53321
activities, and sources in the regular course of a trade or 53322
business and includes income from real property, tangible personal 53323
property, and intangible personal property if the acquisition, 53324
rental, management, and disposition of the property constitute 53325
integral parts of the regular course of a trade or business 53326
operation. "Business income" includes income, including gain or 53327
loss, from a partial or complete liquidation of a business, 53328
including, but not limited to, gain or loss from the sale or other 53329
disposition of goodwill. All income, including gain and loss, 53330
directly or indirectly recognized shall be presumed to be business 53331
income. 53332

(R) "Nonbusiness income" means all income other than business 53333
income. 53334

Sec. 5733.042. (A) As used in this section: 53335

(1) "Affiliated group" has the same meaning as in section 53336
1504 of the Internal Revenue Code. 53337

(2) "Asset value" means the adjusted basis of assets as 53338
determined in accordance with Subchapter O of the Internal Revenue 53339
Code and the Treasury Regulations thereunder. 53340

~~(3) "Intangible expenses and costs" include expenses, losses,~~ 53341
~~and costs for, related to, or in connection directly or indirectly~~ 53342
~~with the direct or indirect acquisition of, the direct or indirect~~ 53343
~~use of, the direct or indirect maintenance or management of, the~~ 53344
~~direct or indirect ownership of, the direct or indirect sale of,~~ 53345
~~the direct or indirect exchange of, or any other direct or~~ 53346
~~indirect disposition of intangible property to the extent such~~ 53347
~~amounts are allowed as deductions or costs in determining taxable~~ 53348

~~income before operating loss deduction and special deductions for 53349
the taxable year under the Internal Revenue Code. Such expenses 53350
and costs include, but are not limited to, losses related to or 53351
incurred in connection directly or indirectly with factoring 53352
transactions, losses related to or incurred in connection directly 53353
or indirectly with discounting transactions, royalty, patent, 53354
technical, and copyright fees, licensing fees, and other similar 53355
expenses and costs. 53356~~

~~(4) "Interest expenses and costs" include but are not limited 53357
to amounts directly or indirectly allowed as deductions under 53358
section 163 of the Internal Revenue Code for purposes of 53359
determining taxable income under the Internal Revenue Code. 53360~~

~~(5) "Member" has the same meaning as in U.S. Treasury 53361
Regulation section 1.1502-1. 53362~~

~~(6) "Related member" means a person that, with respect to the 53363
taxpayer during all or any portion of the taxable year, is a 53364
"related entity" as defined in division (I)(12)(c) of section 53365
5733.04 of the Revised Code, is a component member as defined in 53366
section 1563(b) of the Internal Revenue Code, or is a person to or 53367
from whom which there is attribution of stock ownership in 53368
accordance with section 1563(e) of the Internal Revenue Code 53369
except, for purposes of determining whether a person is a related 53370
member under this division, "twenty per cent" shall be substituted 53371
for "5 per cent" wherever "5 per cent" appears in section 1563(e) 53372
of the Internal Revenue Code. 53373~~

~~(B) This section applies to all corporations for tax years 53374
1999 and thereafter. For tax years prior to 1999, this section 53375
applies only to a corporation that has, or is a member of an 53376
affiliated group that has, or is a member of an affiliated group 53377
with another member that has, one or more of the following: 53378~~

~~(1) Gross sales, including sales to other members of the 53379~~

affiliated group, during the taxable year of at least fifty million dollars; 53380
53381

(2) Total assets whose asset value at any time during the taxable year is at least twenty-five million dollars; 53382
53383

(3) Taxable income before operating loss deduction and special deductions during the taxable year of at least five hundred thousand dollars. 53384
53385
53386

(C) Except as otherwise provided in this section and section 5733.044 of the Revised Code: 53387
53388

(1) For purposes of computing its net income under division (I) of section 5733.04 of the Revised Code, the corporation shall add ~~interest expenses and costs and intangible~~ all expenses and, costs, and losses directly or indirectly paid, accrued, ~~or~~ incurred to, or recognized in connection directly or indirectly with one or more direct or indirect transactions with, ~~one or more of the following~~ related members: 53389
53390
53391
53392
53393
53394
53395

~~(1) Any related member whose activities, in any one state, are primarily limited to the maintenance and management of intangible investments or of the intangible investments of corporations, business trusts, or other entities registered as investment companies under the "Investment Company Act of 1940," 15 U.S.C. 80a-1 et seq., as amended, and the collection and distribution of the income from such investments or from tangible property physically located outside such state. For purposes of division (C)(1) of this section, "intangible investments" includes, without limitation, investments in stocks, bonds, notes, and other debt obligations, including debt obligations of related members, interests in partnerships, patents, patent applications, trademarks, trade names, and similar types of intangible assets.~~ 53396
53397
53398
53399
53400
53401
53402
53403
53404
53405
53406
53407
53408

~~(2) Any related member that is a personal holding company as defined in section 542 of the Internal Revenue Code without regard~~ 53409
53410

~~to the stock ownership requirements set forth in section 542(a)(2) 53411
of the Internal Revenue Code; 53412~~

~~(3) Any related member that is not a corporation and is 53413
directly, indirectly, constructively, or beneficially owned in 53414
whole or in part by a personal holding company as defined in 53415
section 542 of the Internal Revenue Code without regard to the 53416
stock ownership requirements set forth in section 542(a)(2) of the 53417
Internal Revenue Code; 53418~~

~~(4) Any related member that is a foreign personal holding 53419
company as defined in section 552 of the Internal Revenue Code; 53420~~

~~(5) Any related member that is not a corporation and is 53421
directly, indirectly, constructively, or beneficially owned in 53422
whole or in part by a foreign personal holding company as defined 53423
in section 552 of the Internal Revenue Code; 53424~~

~~(6) Any related member if that related member or another 53425
related member directly or indirectly paid, accrued, or incurred 53426
to, or in connection directly or indirectly with one or more 53427
direct or indirect transactions with, another related member any 53428
interest expenses and costs or intangible expenses and costs in an 53429
amount less than, equal to, or greater than such amounts received 53430
from the corporation. Division (C)(6) of this section applies only 53431
if, within a one hundred twenty month period commencing three 53432
years prior to the beginning of the tax year, a related member 53433
directly or indirectly paid, accrued, or incurred such amounts or 53434
losses with respect to one or more direct or indirect transactions 53435
with an entity described in divisions (C)(1) to (5) of this 53436
section. A rebuttable presumption exists that a related member did 53437
so pay, accrue, or incur such amounts or losses with respect to 53438
one or more direct or indirect transactions with an entity 53439
described in divisions (C)(1) to (5) of this section. A 53440
corporation can rebut this presumption only with a preponderance 53441
of the evidence to the contrary. 53442~~

~~(7) Any related member that, with respect to indebtedness directly or indirectly owed by the corporation to the related member, directly or indirectly charged or imposed on the corporation an excess interest rate. If the related member has charged or imposed on the corporation an excess interest rate, the adjustment required by division (C)(7) of this section with respect to such interest expenses and costs directly or indirectly paid, accrued, or incurred to the related member in connection with such indebtedness does not include so much of such interest expenses and costs that the corporation would have directly or indirectly paid, accrued, or incurred if the related member had charged or imposed the highest possible interest rate that would not have been an excess interest rate. For purposes of division (C)(7) of this section, an excess interest rate is an annual rate that exceeds by more than three per cent the greater of the rate per annum prescribed by section 5703.47 of the Revised Code in effect at the time of the origination of the indebtedness, or the rate per annum prescribed by section 5703.47 of the Revised Code in effect at the time the corporation paid, accrued, or incurred the interest expense or cost to the related member.~~

~~(D)(1) In (2) All inter-related member profit in cost of goods sold shall be eliminated.~~

~~(3) All inter-related member profit and gain in all assets, and the concomitant effect on expense and subsequently recognized gains and losses, shall be eliminated.~~

~~In making the adjustment required by division (C) of this section, the corporation shall make the ~~adjustment~~ adjustments required by section 5733.057 of the Revised Code. The~~

~~(D)(1) The adjustments required by division (C) of this section are not required if either of the following applies:~~

~~(a) The corporation establishes by clear and convincing~~

~~evidence that the adjustments are unreasonable.~~ 53474

~~(b) The the corporation and the tax commissioner agree in writing to the application or use of alternative adjustments and computations to more properly reflect the base required to be determined in accordance with division (B) of section 5733.05 of the Revised Code. Nothing in this division ~~(D)(1)(b) of this section~~ shall be construed to limit or negate the tax commissioner's authority to otherwise enter into agreements and compromises otherwise allowed by law.~~ 53475
53476
53477
53478
53479
53480
53481
53482

~~(2) The adjustments required by ~~divisions~~ division (C)(1) ~~to~~ ~~(5)~~ of this section do not apply to such portion of ~~interest~~ expenses and costs ~~and intangible expenses and costs~~ that the corporation can establish by the preponderance of the evidence meets ~~both~~ all of the following:~~ 53483
53484
53485
53486
53487

~~(a) The related member during the same taxable year directly or indirectly paid, accrued, or incurred such portion to a person ~~who~~ that is not a related member ~~of the corporation;~~~~ 53488
53489
53490

~~(b) During the six-year period commencing three years prior to the first day of the corporation's taxable year, such person or any related member of such person did not directly or indirectly pay, accrue, or incur such portion or any part of such portion to the corporation or to any related member of the corporation;~~ 53491
53492
53493
53494
53495

~~(c) The transaction giving rise to the ~~interest~~ expenses and costs ~~or the intangible expenses and costs~~ between the corporation and the related member did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.~~ 53496
53497
53498
53499

~~(3) The adjustments required by ~~division~~ (C)(6) of this section do not apply to such portion of ~~interest~~ expenses and costs ~~and intangible expenses and costs~~ that the corporation can establish by the preponderance of the evidence meets ~~both~~ of the following:~~ 53500
53501
53502
53503
53504

~~(a) The entity described in any of divisions (C)(1) to (6) of this section to whom the related member directly or indirectly paid, accrued, or incurred such portion, in turn during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person who is not a related member, and~~ 53505
53506
53507
53508
53509

~~(b) The transaction or transactions giving rise to the interest expenses and costs or the intangible expenses and costs between the corporation, the related member, and the entity described in any of divisions (C)(1) to (5) did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.~~ 53510
53511
53512
53513
53514
53515

~~(4)(a) The adjustments required by division (C) of this section do not apply except to the extent that the increased tax, if any, attributable to such adjustments would have been be avoided if both the following persons were to compute the tax due under this chapter based upon a combination of income: the corporation and, the related member had been eligible to make and had timely made the election to combine in accordance with division (B) of section 5733.052 of the Revised Code or related members to which the corporation directly or indirectly paid, accrued, or incurred the expenses, costs, or losses described in division (C) of this section, and any other related member or related members directly or indirectly receiving or accruing income from those related members to which the corporation directly or indirectly paid, accrued, or incurred such expenses, costs, or losses described in division (C) of this section.~~ 53516
53517
53518
53519
53520
53521
53522
53523
53524
53525
53526
53527
53528
53529
53530

~~(b) In the case of a combination of income for purposes of division (D)(3) of this section, the net income of the taxpayer shall be measured by the combined net income of the corporation and all related members described in division (D)(3)(a) of this section. For purposes of such measurement, each corporation's net income shall be determined in the same manner as if the related~~ 53531
53532
53533
53534
53535
53536

member or related members were taxpayers under this chapter. In 53537
computing combined net income, intercorporate transactions, 53538
including dividends or distributions, between corporations 53539
included in the combination shall be eliminated. If the 53540
computation of net income on a combination of income involves the 53541
use of any of the formulas set forth in this chapter, the factors 53542
used in the formulas shall be the combined totals of the factors 53543
for each corporation included in the combination after the 53544
elimination of any intercorporate transactions. The exemptions and 53545
deductions permitted under this chapter shall be taken in the same 53546
manner as if each corporation filed a separate report, but in 53547
ascertaining if any amount constitutes business income, all 53548
members of the combined group shall be considered to be one 53549
entity. 53550

(4) For purposes of division (D)(3) of this section, each 53551
corporation's net income allocated or apportioned to this state 53552
shall be computed as follows: 53553

(a) To compute each taxpayer's net nonbusiness income 53554
allocated to this state for purposes of division (B) of section 53555
5733.05 of the Revised Code, each corporation's net nonbusiness 53556
income for sources allocated under section 5733.051 of the Revised 53557
Code shall be separately calculated, eliminating intercorporate 53558
transactions, and allocated to this state as provided by section 53559
5733.051 of the Revised Code. 53560

(b) To compute each corporation's net business income 53561
apportioned to this state for purposes of division (B) of section 53562
5733.05 of the Revised Code, the combined net income, other than 53563
net income from nonbusiness income sources allocated under section 53564
5733.051 of the Revised Code, shall be apportioned to this state 53565
and then prorated to each corporation on the basis of each 53566
corporation's proportionate part of the factors used to apportion 53567
the total of such net business income to this state. 53568

(E) Except as otherwise provided in division (F) of this section, if, on the day that is one year after the day the corporation files its report, the corporation has not made the adjustment required by this section or has not fully paid the tax and interest, if any, imposed by this chapter and attributable to such adjustment, the corporation is subject to a penalty equal to twice the interest charged under division (A) of section 5733.26 of the Revised Code for the delinquent payment of such tax and interest. For the purpose of the computation of the penalty imposed by this division, such penalty shall be deemed to be part of the tax due on the dates prescribed by this chapter without regard to the one-year period set forth in this division. The penalty imposed by this division is not in lieu of but is in addition to all other penalties, other similar charges, and interest imposed by this chapter. The tax commissioner may waive, abate, modify, or refund, with interest, all or any portion of the penalty imposed by this division only if the corporation establishes beyond a reasonable doubt that both the failure to fully comply with this section and the failure to fully pay such tax and interest within one year after the date the corporation files its report were not in any part attributable to the avoidance of any portion of the tax imposed by section 5733.06 of the Revised Code.

(F)(1) For purposes of this division, "tax differential difference" means the difference between (a) the tax ~~that is~~ imposed by section 5733.06 of the Revised Code ~~and~~ that is attributable to the ~~adjustment~~ adjustments required by this section, and (b) the amount paid that is so attributable, prior to the day that is one year after the day the corporation files its report.

(2) The penalty imposed by division (E) of this section does not apply if the tax ~~differential~~ difference meets both of the

following requirements: 53601

(a) ~~The tax differential~~ It is less than ten per cent of the 53602
tax imposed by section 5733.06 of the Revised Code; and 53603

(b) ~~The difference~~ It is less than fifty thousand dollars. 53604

(3) Nothing in division (F) of this section shall be 53605
construed to waive, abate, or modify any other penalties, other 53606
similar charges, or interest imposed by other sections of this 53607
chapter. 53608

(G) Nothing in this section shall require a corporation to 53609
add to its net income more than once any ~~amount of interest~~ 53610
~~expenses and costs or intangible~~ expenses and costs that the 53611
corporation pays, accrues, or incurs to a related member ~~described~~ 53612
~~in~~. No adjustments under division (C) of this section shall be 53613
made to the extent the effect of such adjustments occurs as a 53614
result of a consolidated return, elected under section 5733.052 of 53615
the Revised Code, that includes the corporation and the 53616
corporation's related member or related members with respect to 53617
which such adjustments would be made without regard to this 53618
division. 53619

Sec. 5733.044. (A) Section 5733.042 of the Revised Code does 53620
not apply to a corporation for a tax year for payments of expenses 53621
or costs to which all of the following apply: 53622

(1) The corporation establishes by clear and convincing 53623
evidence that the corporation directly remitted such payments to a 53624
related member that, for the six-year period beginning three years 53625
prior to the remittance, was not subject to federal income tax 53626
with respect to the payments and was not required to file a 53627
federal income tax return with the internal revenue service for 53628
purposes of reporting the payments. For purposes of division 53629
(A)(1) of this section, payments shall be treated as directly 53630

remitted to the related member even if those payments are 53631
processed or paid through another related member that does not 53632
charge a fee in connection therewith. 53633

(2) The corporation establishes by clear and convincing 53634
evidence that during the six-year period beginning three years 53635
prior to the remittance to the related member described in 53636
division (A)(1) of this section, the related member did not 53637
directly or indirectly remit any portion of the payments referred 53638
to in division (A)(1) of this section, or any like, similar, or 53639
other amount, to any other related member that, during any portion 53640
of that six-year period, was subject to federal income tax and was 53641
required to file a federal income tax return with the internal 53642
revenue service. 53643

(3) The corporation establishes by clear and convincing 53644
evidence that the corporation is allowed a deduction for federal 53645
income tax purposes with respect to the remittance made to the 53646
related member described in division (A)(1) of this section for 53647
the corporation's taxable year pursuant to an advanced pricing 53648
agreement between the corporation and the internal revenue 53649
service, or that the corporation has satisfied the documentation 53650
requirements of sections 482 and 6662(e) of the Internal Revenue 53651
Code, or that the corporation has complied with section 482 of the 53652
Internal Revenue Code. 53653

(4) The corporation refutes by clear and convincing evidence 53654
any reasonable conclusion of the tax commissioner that the 53655
transaction giving rise to the remittance to the related member 53656
described in division (A)(1) of this section had as a principal 53657
purpose the avoidance of any portion of the tax due under this 53658
chapter. 53659

For purposes of division (A) of this section, "federal income 53660
tax" and "federal income tax return" do not include withholding 53661
taxes and returns filed for purposes of reporting withholding 53662

taxes, providing information other than reporting income tax liability, or claiming the benefits of a tax treaty between the United States and another government. 53663
53664
53665

(B) Notwithstanding section 5703.56 of the Revised Code to the contrary, a corporation claiming that division (A) of this section applies must refute by clear and convincing evidence any reasonable conclusion of the tax commissioner that any of the doctrines set forth in that section should apply to deny to the corporation the application of division (A) of this section. 53666
53667
53668
53669
53670
53671

(C) Where the corporation and other related members make payments to another related member described in division (A)(1) of this section, and to the extent such payments are processed or paid through another related member in the manner described in division (A)(1) of this section, this section shall apply only with respect to the corporation's pro-rata share of the total payments made by all such related members to the related member described in division (A)(1) of this section during the taxable year, unless the corporation establishes by clear and convincing evidence the actual amount of the corporation's payments that are made to the related member described in division (A)(1) of this section. Nothing in division (C) of this section shall allow a corporation to apply division (A) of this section to any amount greater than the actual payments made by the corporation to a related member described in division (A)(1) of this section during the taxable year. 53672
53673
53674
53675
53676
53677
53678
53679
53680
53681
53682
53683
53684
53685
53686
53687

(D) Any adjustments made by the internal revenue service to any related member of the corporation with respect to an advanced pricing agreement or with respect to section 482 of the Internal Revenue Code shall be presumed to be adjustments properly attributed to the corporation, unless the corporation establishes by clear and convincing evidence that the adjustment should be attributed, in whole or in part, to another person. 53688
53689
53690
53691
53692
53693
53694

(E)(1) If any corporation claims the benefit provided by 53695
division (A) of this section and is not entitled to such benefit, 53696
any adjustment otherwise required by section 5733.042 of the 53697
Revised Code shall be further increased by an amount equal to two 53698
times such adjustment. 53699

(2) Division (E)(1) of this section does not apply to 53700
adjustments made in connection with an advanced pricing agreement. 53701

Sec. 5733.05. As used in this section, "dealer in 53702
intangibles" has the same meaning as in section 5725.01 of the 53703
Revised Code, and "qualified research" means laboratory research, 53704
experimental research, and other similar types of research; 53705
research in developing or improving a product; or research in 53706
developing or improving the means of producing a product. ~~It~~ 53707
"Qualified research" does not include market research, consumer 53708
surveys, efficiency surveys, management studies, ordinary testing 53709
or inspection of materials or products for quality control, 53710
historical research, or literary research. "Product" as used in 53711
this paragraph does not include services or intangible property. 53712

The annual report determines the value of the issued and 53713
outstanding shares of stock of the taxpayer, which under division 53714
(A) or divisions (B) and (C) of this section is the base or 53715
measure of the franchise tax liability. Such determination shall 53716
be made as of the date shown by the report to have been the 53717
beginning of the corporation's annual accounting period that 53718
includes the first day of January of the tax year. For the 53719
purposes of this chapter, the value of the issued and outstanding 53720
shares of stock of any corporation that is a financial institution 53721
shall be deemed to be the value as calculated in accordance with 53722
division (A) of this section. For the purposes of this chapter, 53723
the value of the issued and outstanding shares of stock of any 53724
corporation that is not a financial institution shall be deemed to 53725

be the values as calculated in accordance with divisions (B) and 53726
(C) of this section. Except as otherwise required by this section 53727
or section 5733.056 of the Revised Code, the value of a taxpayer's 53728
issued and outstanding shares of stock under division (A) or (C) 53729
of this section does not include any amount that is treated as a 53730
liability under generally accepted accounting principles. 53731

(A) The total value, as shown by the books of the financial 53732
institution, of its capital, surplus, whether earned or unearned, 53733
undivided profits, and reserves shall be determined as prescribed 53734
by section 5733.056 of the Revised Code for tax years 1998 and 53735
thereafter. 53736

(B) The sum of the corporation's net income during the 53737
corporation's taxable year, allocated or apportioned to this state 53738
as prescribed in divisions (B)(1) and (2) of this section, and 53739
subject to sections 5733.052, 5733.053, 5733.057, 5733.058, 53740
5733.059, and 5733.0510 of the Revised Code: 53741

(1) The net nonbusiness income allocated or apportioned to 53742
this state as provided by section 5733.051 of the Revised Code. 53743

(2) The amount of Ohio apportioned net business income ~~from~~ 53744
~~sources other than those allocated under section 5733.051 of the~~ 53745
~~Revised Code~~, which shall be ~~determined~~ calculated by multiplying 53746
the corporation's net business income by a fraction. The numerator 53747
of the fraction is the sum of the following products: the property 53748
factor multiplied by twenty, the payroll factor multiplied by 53749
twenty, and the sales factor multiplied by sixty. The denominator 53750
of the fraction is one hundred, provided that the denominator 53751
shall be reduced by twenty if the property factor has a 53752
denominator of zero, by twenty if the payroll factor has a 53753
denominator of zero, and by sixty if the sales factor has a 53754
denominator of zero. 53755

The property, payroll, and sales factors shall be determined 53756

as follows, but the numerator and the denominator of the factors 53757
shall not include the portion of any property, payroll, and sales 53758
otherwise includible in the factors to the extent that the portion 53759
relates to, or is used in connection, with the production of 53760
nonbusiness income allocated under section 5733.051 of the Revised 53761
Code: 53762

(a) The property factor is a fraction ~~the~~ that, for a dealer 53763
in intangibles shall be determined pursuant to division (D) of 53764
section 5733.056 of the Revised Code in the same manner as if the 53765
dealer were a financial institution, and for a corporation that is 53766
not a dealer in intangibles shall be determined as follows: The 53767
numerator of ~~which~~ the fraction is the average value of the 53768
corporation's real and tangible personal property owned or rented, 53769
and used in the trade or business in this state during the taxable 53770
year, and the denominator of ~~which~~ the fraction is the average 53771
value of all the corporation's real and tangible personal property 53772
owned or rented, and used in the trade or business everywhere 53773
during such year. Real and tangible personal property used in the 53774
trade or business includes, but is not limited to, real and 53775
tangible personal property that the corporation rents, subrents, 53776
leases, or subleases to others if the income or loss from such 53777
rentals, subrentals, leases, or subleases is business income. 53778
There shall be excluded from the numerator and denominator of the 53779
~~property factor~~ fraction the original cost of all ~~of the following~~ 53780
property within Ohio: ~~property with respect to which a "pollution~~ 53781
~~control facility" certificate has been issued pursuant to section~~ 53782
~~5709.21 of the Revised Code; property with respect to which an~~ 53783
~~"industrial water pollution control certificate" has been issued~~ 53784
~~pursuant to section 6111.31 of the Revised Code; and property used~~ 53785
exclusively during the taxable year for qualified research. 53786

(i) Property owned by the corporation is valued at its 53787
original cost. Property rented by the corporation is valued at 53788

eight times the net annual rental rate. "Net annual rental rate" 53789
means the annual rental rate paid by the corporation less any 53790
annual rental rate received by the corporation from subrentals. 53791

(ii) The average value of property shall be determined by 53792
averaging the values at the beginning and the end of the taxable 53793
year, but the tax commissioner may require the averaging of 53794
monthly values during the taxable year, if reasonably required to 53795
reflect properly the average value of the corporation's property. 53796

(b) The payroll factor is a fraction ~~the~~ that, for a dealer 53797
in intangibles shall be determined pursuant to division (D) of 53798
section 5733.056 of the Revised Code in the same manner as if the 53799
dealer were a financial institution, and for a corporation that is 53800
not a dealer in intangibles shall be determined as follows: The 53801
numerator of ~~which~~ the fraction is the total amount paid in this 53802
state during the taxable year by the corporation for compensation, 53803
and the denominator of ~~which~~ the fraction is the total 53804
compensation paid everywhere by the corporation during such year. 53805
There shall be excluded from the numerator and the denominator of 53806
the ~~payroll factor~~ fraction the total compensation paid in this 53807
state to employees who are primarily engaged in qualified 53808
research. 53809

(i) Compensation means any form of remuneration paid to an 53810
employee for personal services. 53811

(ii) Compensation is paid in this state if: (1) the 53812
recipient's service is performed entirely within this state, (2) 53813
the recipient's service is performed both within and without this 53814
state, but the service performed without this state is incidental 53815
to the recipient's service within this state, (3) some of the 53816
service is performed within this state and either the base of 53817
operations, or if there is no base of operations, the place from 53818
which the service is directed or controlled is within this state, 53819
or the base of operations or the place from which the service is 53820

directed or controlled is not in any state in which some part of 53821
the service is performed, but the recipient's residence is in this 53822
state. 53823

(iii) Compensation is paid in this state to any employee of a 53824
common or contract motor carrier corporation, who performs the 53825
employee's regularly assigned duties on a motor vehicle in more 53826
than one state, in the same ratio by which the mileage traveled by 53827
such employee within the state bears to the total mileage traveled 53828
by such employee everywhere during the taxable year. 53829

(c)(i) The sales factor is a fraction that, for a dealer in 53830
intangibles shall be determined pursuant to division (F) of 53831
section 5733.056 of the Revised Code in the same manner as if the 53832
dealer were a financial institution, and for a corporation that is 53833
not a dealer in intangibles shall be determined as provided in 53834
division (B)(2)(c) of this section. Except as provided in section 53835
5733.059 of the Revised Code, ~~the sales factor is a fraction~~ the 53836
numerator of ~~which~~ the fraction is the total sales in this state 53837
by the corporation during the taxable year, and the denominator of 53838
~~which~~ the fraction is the total sales by the corporation 53839
everywhere during such year. In determining the numerator and 53840
denominator of the ~~sales factor,~~ fraction, receipts excluded from 53841
gross income, receipts not otherwise included in net income under 53842
any provision of this title, and receipts from the sale or other 53843
disposal of a capital asset or an asset described in section 1231 53844
of the Internal Revenue Code shall be eliminated. ~~Also, in~~ 53845
~~determining the numerator and denominator of the sales factor, in~~ 53846
~~the case of a reporting corporation owning at least eighty per~~ 53847
~~cent of the issued and outstanding common stock of one or more~~ 53848
~~insurance companies or public utilities, except an electric~~ 53849
~~company, or owning at least twenty five per cent of the issued and~~ 53850
~~outstanding common stock of one or more financial institutions,~~ 53851
~~receipts received by the reporting corporation from such~~ 53852

~~utilities, insurance companies, and financial institutions shall
be eliminated.~~ 53853
53854

For the purpose of this section and section 5733.03 of the 53855
Revised Code, sales of electricity and of electric transmission 53856
and distribution services shall be sitused to this state in the 53857
manner provided under section 5733.059 of the Revised Code. 53858

Sales of real property located in this state are in this 53859
state. Sales of tangible personal property are in this state where 53860
~~such~~ either the property is received in this state by ~~the~~ a 53861
purchaser other than the United States government, or the property 53862
is shipped from a location in this state and either the purchaser 53863
is the United States government or the seller is not liable for a 53864
tax on or measured by net income in the state where the property 53865
is received. ~~In~~ 53866

In the case of delivery of tangible personal property by 53867
common carrier or by other means of transportation, the place at 53868
which such property is ultimately received after all 53869
transportation has been completed shall be considered as the place 53870
at which such property is received by the purchaser. Direct 53871
delivery in this state, other than for purposes of transportation, 53872
to a person or firm designated by a purchaser constitutes delivery 53873
to the purchaser in this state, and direct delivery outside this 53874
state to a person or firm designated by a purchaser does not 53875
constitute delivery to the purchaser in this state, regardless of 53876
where title passes or other conditions of sale. 53877

Except as provided in division (B)(2)(c)(ii) of this section 53878
~~5733.059 of the Revised Code~~, sales, other than sales of 53879
electricity and of electric transmission and distribution 53880
services, of real property, and of tangible personal property, are 53881
in this state if either- 53882

~~(i) The income producing activity is performed solely in this~~ 53883

state; 53884

~~(ii) The income producing activity is performed both within 53885
and without this state (I) the purchaser receives in this state 53886
the benefit of what is sold, or (II) the purchaser receives, in a 53887
state in which the seller is not subject to a tax on or measured 53888
by net income, the benefit of what is sold, and a greater 53889
proportion of the income-producing activity, based on costs of 53890
performance, is performed within this state than in any other 53891
state, based on costs of performance in which the seller is liable 53892
for a tax on or measured by net income. 53893~~

The tax commissioner may adopt rules pursuant to sections 53894
5703.14 and 5733.07 of the Revised Code for ascertaining the 53895
location of the benefit of what is sold. Those rules may provide 53896
for prorating the benefit to more than one location. Such rules 53897
may apply to all corporations, to specified classes of 53898
corporations, or to corporations within a specified industry. 53899

(ii) Notwithstanding division (B)(2)(c)(i) of this section, 53900
no receipts, income, or gain from the sale, exchange, or other 53901
disposition of stocks, bonds, options, or other securities shall 53902
be included in a corporation's sales factor unless the stocks, 53903
bonds, options, or other securities were part of the corporation's 53904
inventory as described in section 1221(a)(1) of the Internal 53905
Revenue Code, and, if they were part of such inventory, only the 53906
receipts from such sale, exchange, or other disposition shall be 53907
included in the sales factor. 53908

~~(d) If the allocation and apportionment Subject to division 53909
(B)(2)(f) of this section, if the provisions of division (B) of 53910
this section chapter do not fairly represent the extent of the 53911
taxpayer's business activity in this state, the taxpayer may 53912
request, which request must be in writing and must accompany the 53913
report, a timely filed petition for reassessment, or a timely 53914
filed amended report, or the tax commissioner may require, in 53915~~

respect to all or any part of the taxpayer's allocated or 53916
apportioned base, if reasonable, any one or more of the following: 53917

(i) Separate accounting; 53918

(ii) The exclusion of any one or more of the factors; 53919

(iii) The inclusion of one or more additional factors that 53920
will fairly represent the taxpayer's allocated or apportioned base 53921
in this state; 53922

(iv) The employment of any other method to effectuate an 53923
equitable calculation of the corporation's base. 53924

An alternative method will be effective only with approval by 53925
the tax commissioner. 53926

Nothing in this section shall be construed to extend any 53927
statute of limitations set forth in this chapter. 53928

(e) Pursuant to sections 5703.14 and 5733.07 of the Revised 53929
Code, the tax commissioner may adopt rules providing for 53930
alternative allocation and apportionment methods, and alternative 53931
calculations of a corporation's base, that apply to all 53932
corporations, to specified classes of corporations, or to 53933
corporations within a specified industry. 53934

(f) Unless prior written approval is received from the 53935
commissioner, a person making a request under division (B)(2)(d) 53936
of this section to apportion or to allocate income in a manner 53937
other than as provided in this chapter without regard to division 53938
(B)(2)(d) of this section must first pay the tax imposed under 53939
this chapter, computed in a good faith and reasonable manner, 53940
based on the provisions of this chapter without regard to division 53941
(B)(2)(d) of this section. In addition to the other penalties 53942
provided for under this chapter, the commissioner may impose an 53943
additional penalty of up to fifteen per cent on the difference in 53944
tax as determined by the commissioner and the tax paid by the 53945

corporation that, without obtaining the prior written approval of 53946
the commissioner, apportsions or allocates income in a manner other 53947
than as provided by this chapter without regard to division 53948
(B)(2)(d) of this section. The penalty so imposed may be billed 53949
and assessed in the same manner as the tax. 53950

A request under division (B)(2)(d) of section 5733.05 of the 53951
Revised Code, either to apportion or allocate income or to 53952
calculate a corporation's base in a manner other than as provided 53953
in this chapter without regard to division (B)(2)(d) of this 53954
section, shall not be allowed or granted to a corporation that 53955
fails to obtain from the commissioner prior written approval 53956
either to apportion or allocate income in a manner other than as 53957
provided in this chapter without regard to division (B)(2)(d) of 53958
this section, and that fails to compute and pay fully the tax 53959
imposed by this chapter, in a good faith and reasonable manner, 53960
based on the provisions of this chapter without regard to division 53961
(B)(2)(d) of this section. 53962

Nothing in this section requires the tax commissioner to 53963
allow or grant any request for, or prevents the commissioner from 53964
requiring, an alternative method under division (B)(2)(d) of this 53965
section. 53966

~~(C)(1) Subject to divisions (C)(2) and (3) of this section,~~ 53967
~~the~~ The total value, as shown on the books of each corporation 53968
that is not a qualified holding company, of the net book value of 53969
a ~~the~~ corporation's assets less the net carrying value of its 53970
liabilities, ~~and~~ excluding from the corporation's assets land 53971
devoted exclusively to agricultural use as of the first Monday of 53972
June in the corporation's taxable year as determined by the county 53973
auditor of the county in which the land is located pursuant to 53974
section 5713.31 of the Revised Code, and making any adjustment 53975
required by division (D) of this section. For the purposes of 53976
determining that total value, any reserves shown on the 53977

corporation's books shall be considered liabilities or contra 53978
assets, as the case may be, except for any reserves that are 53979
deemed appropriations of retained earnings under generally 53980
accepted accounting principles. 53981

(2)(a) The base upon which the tax is levied under division 53982
(C) of section 5733.06 of the Revised Code shall be computed by 53983
multiplying the amount determined under division (C)(1) of this 53984
section by the fraction determined under divisions (B)(2)(a) to 53985
(c) of this section and, if applicable, divisions (B)(2)(d)(ii) to 53986
(iv) of this section, and with regard to section 5733.052 of the 53987
Revised Code, but substituting "net worth" for "net income" 53988
wherever "net income" appears in division (B)(2)(c) in this 53989
section. For purposes of division (C)(2) of this section, the 53990
numerator and denominator of each of the fractions shall include 53991
the portion of any real and tangible personal property, payroll, 53992
and sales, respectively, relating to, or used in connection with 53993
the production of, net nonbusiness income allocated under section 53994
5733.051 of the Revised Code. Nothing in this division shall allow 53995
any amount to be included in the numerator or denominator more 53996
than once. If the commissioner approves an alternative method 53997
pursuant to divisions (B)(2)(d) and (e) of this section for 53998
purposes of determining the taxpayer's base under division (B) of 53999
this section, a consistent method shall be employed for purposes 54000
of determining the taxpayer's base under division (C) of this 54001
section. 54002

(D) This division does not apply with respect to any person 54003
purporting to have elected to be a qualifying holding company if 54004
the person is participating, or is required to participate, in the 54005
filing of a consolidated report described in section 5733.052 of 54006
the Revised Code. Notwithstanding any other section of this 54007
chapter to the contrary, no person participating, or required to 54008
participate, in the filing of a consolidated report described in 54009

section 5733.052 of the Revised Code shall be eligible to make an election to be a qualifying holding company for the tax year. 54010
54011

(1) If, on the last day of the taxpayer's taxable year 54012
preceding the tax year, the taxpayer is a related member to a 54013
corporation that elects to be a qualifying holding company for the 54014
tax year beginning after the last day of the taxpayer's taxable 54015
year, or if, on the last day of the taxpayer's taxable year 54016
preceding the tax year, a corporation that elects to be a 54017
qualifying holding company for the tax year beginning after the 54018
last day of the taxpayer's taxable year is a related member to the 54019
taxpayer, ~~then~~ the taxpayer's total value for the purposes of 54020
division (C) of this section shall be adjusted by the qualifying 54021
amount. Except as otherwise provided under division ~~(C)(D)(2)(b)~~ 54022
of this section, "qualifying amount" means the amount that, when 54023
added to the taxpayer's total value, and when subtracted from the 54024
net carrying value of the taxpayer's liabilities computed without 54025
regard to division ~~(C)(2)(D)~~ of this section, or when subtracted 54026
from the taxpayer's total value and when added to the net carrying 54027
value of the taxpayer's liabilities computed without regard to 54028
division ~~(C)(2)(D)~~ of this section, results in the taxpayer's 54029
debt-to-equity ratio equaling the debt-to-equity ratio of the 54030
qualifying controlled group on the last day of the taxable year 54031
ending prior to the first day of the tax year computed on a 54032
consolidated basis in accordance with general accepted accounting 54033
principles. For the purposes of division ~~(C)(2)(a)(D)(1)~~ of this 54034
section, the corporation's total value, after the adjustment 54035
required by that division, shall not exceed the net book value of 54036
the corporation's assets. 54037

~~(b)(i)(2)(a)~~ The amount added to the taxpayer's total value 54038
and subtracted from the net carrying value of the taxpayer's 54039
liabilities shall not exceed the amount of the net carrying value 54040
of the taxpayer's liabilities owed to the taxpayer's related 54041

members. 54042

~~(ii)(b)~~ A liability owed to the taxpayer's related members 54043
includes, but is not limited to, any amount that the corporation 54044
owes to a person that is not a related member if the corporation's 54045
related member or related members in whole or in part guarantee 54046
any portion or all of that amount, or pledge, hypothecate, 54047
mortgage, or carry out any similar transactions to secure any 54048
portion or all of that amount. 54049

~~(3) The base upon which the tax is levied under division (C)~~ 54050
~~of section 5733.06 of the Revised Code shall be computed by~~ 54051
~~multiplying the amount determined under divisions (C)(1) and (2)~~ 54052
~~of this section by the fraction determined under divisions~~ 54053
~~(B)(2)(a) to (c) of this section and, if applicable, divisions~~ 54054
~~(B)(2)(d)(ii) to (iv) of this section but without regard to~~ 54055
~~section 5733.052 of the Revised Code.~~ 54056

~~(4) For purposes of division (C)(D) of this section, "related~~ 54057
~~member" has the same meaning as in division (A)(6) of section~~ 54058
~~5733.042 of the Revised Code without regard to division (B) of~~ 54059
~~that section.~~ 54060

Sec. 5733.051. Subject For purposes of this section, "capital 54061
gain" does not include any item of income that is not treated as a 54062
capital gain under section 1245 or 1250 of the Internal Revenue 54063
Code or under any other similar section of the Internal Revenue 54064
Code. 54065

For purposes of this section, "available" means information 54066
is such that a person is able to learn of the information by the 54067
due date plus extensions, if any, for filing the report for the 54068
tax year immediately following the last day of the taxable year, 54069
and "modified qualifying controlled group" means that portion of a 54070
qualifying controlled group consisting of the corporation the sale 54071
of which resulted in the gain or loss described in division (E) of 54072

this section together with all members of the qualifying 54073
controlled group owned directly or indirectly by that corporation, 54074
or the corporation that directly paid the dividend or directly 54075
made the distribution described in division (F) of this section 54076
together with all members of the qualifying controlled group owned 54077
directly or indirectly by that corporation. 54078

Unless the corporation has received prior written approval 54079
from the tax commissioner, a corporation making a request under 54080
division (B)(2)(d) of section 5733.05 of the Revised Code to 54081
allocate or apportion income, or to calculate the base, in a 54082
manner other than as provided in this section must first pay the 54083
tax imposed under this chapter, computed and paid in full in a 54084
good faith and reasonable manner, without regard to division 54085
(B)(2)(d) of section 5733.05 of the Revised Code. Unless the 54086
person receives prior written approval from the commissioner and 54087
unless the person computes and pays in full the tax imposed by 54088
this chapter, in a good faith and reasonable manner, without 54089
regard to division (B)(2)(d) of section 5733.05 of the Revised 54090
Code, the allocation or apportionment of income in a manner other 54091
than as provided in this section shall not be allowed or granted. 54092

Nothing in this section requires the commissioner to allow or 54093
grant any request for, or prevents the commissioner from 54094
requiring, an alternative method under division (B)(2)(d) of 54095
section 5733.05 of the Revised Code. 54096

Subject to section 5733.0510 of the Revised Code, net income 54097
of a corporation ~~subject to the tax imposed by section 5733.06 of~~ 54098
~~the Revised Code~~ shall be allocated and apportioned to this state 54099
as follows: 54100

(A) Net rents and royalties from real property located in 54101
this state are allocable to this state. Net rents and royalties 54102
from real property not located in this state are allocable outside 54103
this state. 54104

(B) Net rents and royalties from tangible personal property, 54105
to the extent such property is utilized in this state, are 54106
allocable to this state ~~if the taxpayer is otherwise subject to~~ 54107
~~the tax imposed by section 5733.06 of the Revised Code.~~ Net rents 54108
and royalties from tangible personal property, to the extent such 54109
property is utilized outside this state, are allocable outside 54110
this state. 54111

(C) Capital gains and losses from the sale or other 54112
disposition of real property located in this state are allocable 54113
to this state. Capital gains and losses from the sale or other 54114
disposition of real property located outside this state are 54115
allocable outside this state. 54116

(D) Capital gains and losses from the sale or other 54117
disposition of tangible personal property are allocable to this 54118
state ~~if the property had a situs in this state at the time of~~ 54119
~~sale and the taxpayer is otherwise subject to the tax imposed by~~ 54120
~~section 5733.06 of the Revised Code~~ to the extent such property 54121
was utilized in this state prior to the property's sale or other 54122
disposition. Capital gains and losses from the sale or other 54123
disposition of tangible personal property are allocable outside 54124
this state to the extent such property was utilized outside this 54125
state prior to the property's sale or other disposition. 54126

(E) Capital gains and losses from the sale or other 54127
disposition of intangible property which may produce income 54128
enumerated in division (F)(1) of this section are allocable on the 54129
same basis as set forth in that division, substituting the day of 54130
the sale or disposition for the day on which the payor pays the 54131
dividend or makes the distribution, but if the location of the 54132
physical assets described in that division is not available to the 54133
taxpayer, such gains and losses are apportionable under division 54134
(I) of this section. Capital gains and losses from the sale or 54135
other disposition of all other intangible property are 54136

apportionable under division (I) of this section. 54137

(F) "Dividends or distributions" to which this division 54138
refers are dividends directly or indirectly paid by or 54139
distributions directly or indirectly made by any person classified 54140
for federal income tax purposes as an association taxable as a 54141
corporation. 54142

(1) Dividends or distributions which are not otherwise 54143
deducted or excluded from net income, other than dividends or 54144
distributions from a domestic international sales corporation, are 54145
allocable shall be allocated to this state in accordance with the 54146
ratio of the book value of the physical assets of the payor of the 54147
dividends or distributions located in this state divided by the 54148
book value of the total physical assets of the payor located 54149
everywhere by multiplying such dividends and distributions by a 54150
fraction. The numerator of the fraction is the book value of the 54151
physical assets in this state of the payor or, if the payor is a 54152
member of a modified qualifying controlled group on the last day 54153
of the payor's fiscal or calendar year ending immediately prior to 54154
the day on which the payor pays the dividend or makes the 54155
distribution, the sum of the book values of the physical assets in 54156
this state of the payor and of all the other members of the 54157
modified qualifying controlled group of which the payor is a 54158
member on the last day of the payor's fiscal or calendar year 54159
ending immediately prior to the day on which the payor pays the 54160
dividend or makes the distribution. The denominator of the 54161
fraction is the book value of the physical assets everywhere of 54162
the payor or, if the payor is a member of a modified qualifying 54163
controlled group on the last day of the payor's fiscal or calendar 54164
year ending immediately prior to the day on which the payor pays 54165
the dividend or makes the distribution, the sum of the book values 54166
of the physical assets everywhere of the payor and of all the 54167
other members of the modified qualifying controlled group of which 54168

the payor is a member on the last day of the payor's fiscal or 54169
calendar year ending immediately prior to the day on which the 54170
payor pays the dividend or makes the distribution. Dividends or 54171
distributions received from a domestic international sales 54172
corporation, or from a payor for which the location of ~~whose~~ 54173
physical assets described in this division is ~~unavailable~~ not 54174
available to the taxpayer, are apportionable under division (I) of 54175
this section. 54176

(2) If the payor of a dividend or distribution, or if that 54177
payor and any members of the qualifying controlled group of which 54178
the payor is a member on the last day of the payor's fiscal or 54179
calendar year ending immediately prior to the day on which the 54180
payor pays the dividend or makes the distribution, separately or 54181
cumulatively own, directly or indirectly, on the last day of the 54182
payor's fiscal or calendar year ending immediately prior to the 54183
day on which the payor pays the dividend or makes the 54184
distribution, more than fifty per cent of the equity of a 54185
pass-through entity, then for purposes of division (F)(1) of this 54186
section the payor and the other members are deemed to own the 54187
proportionate share of the physical assets that the pass-through 54188
entity directly or indirectly owns on the last day of the payor's 54189
fiscal or calendar year ending immediately prior to the day on 54190
which the payor pays the dividend or makes the distribution. 54191

(3) For the purposes of division (F)(3) of this section, 54192
"upper level pass-through entity" means a pass-through entity 54193
directly or indirectly owning any equity of another pass-through 54194
entity, and "lower level pass-through entity" means that other 54195
pass-through entity. For purposes of divisions (F)(1) and (2) of 54196
this section, an upper level pass-through entity is deemed to own, 54197
on the last day of the upper level pass-through entity's fiscal or 54198
calendar year, the proportionate share of the lower level 54199
pass-through entity's physical assets that the lower level 54200

pass-through entity directly or indirectly owns on the last day of 54201
the lower level pass-through entity's fiscal or calendar year 54202
ending within or with the last day of the upper level pass-through 54203
entity's fiscal or calendar year. If the upper level pass-through 54204
entity directly and indirectly owns less than fifty per cent of 54205
the equity of the lower level pass-through entity on each day of 54206
the upper level pass-through entity's fiscal or calendar year in 54207
which or with which ends the fiscal or calendar year of the lower 54208
level pass-through entity and if, based upon clear and convincing 54209
evidence, complete information about the location and cost of the 54210
physical assets of the lower level pass-through entity is not 54211
available to the upper level pass-through entity, then for 54212
purposes of divisions (F)(1) and (2) of this section, the upper 54213
level pass-through entity shall be deemed as owning no equity of 54214
the lower level pass-through entity for each day during the upper 54215
level pass-through entity's calendar or fiscal year in which or 54216
with which ends the lower level pass-through entity's fiscal or 54217
calendar year. 54218

(G) ~~Patent and copyright~~ Net rents, net royalties, and net 54219
technical assistance fees, not representing the principal source 54220
of gross receipts of the taxpayer, from intangible property 54221
are allocable to this state to the extent that the activity of the 54222
payor thereof giving rise to the payment takes place in this 54223
state. If the location of the a payor's activity is unavailable 54224
not available to the taxpayer, such corporation, the net rents, 54225
net royalties, and net technical assistance fees are allocable or 54226
apportionable under division (I) of this section. 54227

(H)(1) ~~The following amounts described in division (B)(5) of~~ 54228
~~section 5747.20 of the Revised Code~~ are allocable to this state: 54229

(a) All lottery prize awards paid by the state lottery 54230
commission pursuant to Chapter 3770. of the Revised Code; 54231

(b) All earnings, profit, income, and gain from the sale, 54232

exchange, or other disposition of lottery prize awards paid or to 54233
be paid to any person by the state lottery commission pursuant to 54234
Chapter 3770. of the Revised Code; 54235

(c) All earnings, profit, income, and gain from the direct or 54236
indirect ownership of lottery prize awards paid or to be paid to 54237
any person by the state lottery commission pursuant to Chapter 54238
3770. of the Revised Code; 54239

(d) All earnings, profit, income, and gain from the direct or 54240
indirect interest in any right in or to any lottery prize awards 54241
paid or to be paid to any person by the state lottery commission 54242
pursuant to Chapter 3770. of the Revised Code. 54243

(2) Lottery prize awards and related earnings, profit, 54244
income, or gain with respect to lotteries sponsored by persons or 54245
agencies outside this state shall be allocated outside this state. 54246

(I) ~~Any~~ Every other item of net nonbusiness income, from 54247
sources other than those enumerated in divisions (A) to (H) of 54248
this section, is allocated entirely to this state except to the 54249
extent the allocation of such item of net nonbusiness income 54250
entirely to this state is not within the taxing power of this 54251
state under the Constitution of the United States. To the extent 54252
such allocation entirely to this state would not be within the 54253
taxing power of this state under the Constitution of the United 54254
States, such item of net nonbusiness income is apportionable to 54255
this state on the basis of the mechanism provided in division 54256
(B)(2) of section 5733.05 and in section 5733.057 of the Revised 54257
Code. 54258

Sec. 5733.052. (A) Any elected, requested, or required 54259
combination of income made pursuant to this section prior to the 54260
effective date of the repeal and reenactment of this section by 54261
.B. of the 125th general assembly shall not apply to taxable years 54262
ending on or after that effective date. No elected, requested, or 54263

required combination of income shall be allowed for taxable years 54264
ending on or after that effective date. Nothing in this section 54265
affects or modifies each taxpayer's unused net operating losses 54266
calculated pursuant to this section prior to that effective date. 54267

(B)(1)(a)(i) At any time during the period or extended period 54268
described in section 5733.11 of the Revised Code, a taxpayer may 54269
elect to file a consolidated report for the tax year and pay the 54270
tax so computed in accordance with this section. 54271

(ii) At any time during the period or extended period 54272
described in section 5733.11 of the Revised Code, the taxpayer may 54273
revoke the election described in division (B)(1)(a)(i) of this 54274
section and seek a refund of any excess tax paid, together with 54275
appropriate interest and any previously paid penalty related to 54276
the refund of tax. 54277

(b)(i) The tax commissioner may not revoke or set aside a 54278
taxpayer's election to file a consolidated report allowed by 54279
division (B)(1)(a)(i) of this section. 54280

(ii) The tax commissioner may not revoke or set aside a 54281
taxpayer's revocation, allowed by division (B)(1)(a)(ii) of this 54282
section, of the taxpayer's previous election to file a 54283
consolidated report. Nothing in division (B)(1)(b)(ii) shall limit 54284
the tax commissioner's authority under division (B)(2)(a) of this 54285
section to require that the taxpayer file a consolidated report 54286
for the tax year to which the taxpayer's revocation applies. 54287

(2)(a) At any time during the period or extended period 54288
described in section 5733.11 of the Revised Code, the tax 54289
commissioner, to the extent allowed by the Constitution of the 54290
United States, may require a taxpayer to file a consolidated 54291
report for the tax year, and pay the appropriate tax, interest, 54292
and penalty if the tax commissioner ascertains that, in order to 54293
properly reflect income, such a consolidation is necessary because 54294

of intercorporate transactions and the tax liability imposed by 54295
section 5733.06 of the Revised Code. 54296

(b) At any time during the period or extended period 54297
described in section 5733.11 of the Revised Code, the tax 54298
commissioner may revoke the requirement under division (B)(2)(a) 54299
of this section that the taxpayer file a consolidated report for 54300
the tax year. 54301

(i) If such revocation by the tax commissioner results in the 54302
imposition of additional tax, interest, and penalty, the taxpayer 54303
or taxpayers shall immediately pay all additional tax, interest, 54304
and penalty. 54305

(ii) If such revocation by the tax commissioner results in a 54306
reduction of tax, interest, and penalty, the tax commissioner 54307
shall immediately refund to the taxpayer or taxpayers the excess 54308
tax paid, together with interest and any related penalty 54309
previously paid. 54310

(C) Except as set forth in divisions (C)(1) and (2) and (E) 54311
of this section, the concepts and principles set forth in sections 54312
1501 and 1502 of the Internal Revenue Code and the United States 54313
Department of Treasury regulations issued thereunder shall apply 54314
to the consolidated report. To the extent not inconsistent with 54315
sections 1501 and 1502 of the Internal Revenue Code and the United 54316
States Department of Treasury regulations issued thereunder: 54317

(1) The consolidated report shall show and include the 54318
consolidated net income of all members of the consolidated federal 54319
income tax return for the taxable year immediately preceding the 54320
tax year, but shall not include a financial institution or a 54321
person exempt from the tax imposed under this chapter under 54322
division (A) or (C) of section 5733.09 of the Revised Code. 54323

(2) The consolidated report shall show and include the 54324
consolidated net worth, as of the date shown by the report to have 54325

been the beginning of the annual accounting period that includes 54326
the first day of January of the tax year, for all members of the 54327
consolidated federal income tax return for the taxable year ending 54328
immediately prior to such date, but shall not include a financial 54329
institution or a person exempt from the tax imposed under this 54330
chapter under division (A) or (C) of section 5733.09 of the 54331
Revised Code. 54332

(3) Each item of income, gain, expense, or loss shall be 54333
ascertained to be business income or nonbusiness income as if all 54334
the corporations participating, or required to participate, in the 54335
filing of the consolidated tax report were one corporation. 54336

(4) The following items shall be ascertained as if all the 54337
corporations participating, or required to participate, in the 54338
filing of the consolidated tax report were one corporation: the 54339
calculation of the apportionment fraction described in division 54340
(B) of section 5733.05 of the Revised Code, the calculation of 54341
business income apportioned to this state, the calculation of 54342
nonbusiness income allocated or apportioned to this state, the 54343
calculation of the net worth apportioned to this state, and the 54344
computation of the tax described in section 5733.06 of the Revised 54345
Code. 54346

(D) Unless another section of the Revised Code expressly 54347
provides otherwise, then to the extent not inconsistent with 54348
sections 1501 and 1502 of the Internal Revenue Code and the United 54349
States Department of Treasury regulations issued thereunder, the 54350
computation of all credits shall be ascertained as if all the 54351
corporations participating, or required to participate, in the 54352
filing of the consolidated tax report were one corporation. 54353

(E) Notwithstanding division (C) of this section to the 54354
contrary, each corporation participating, or required to 54355
participate, in the filing of the consolidated report allowed by 54356
this section shall be jointly and severally liable for the tax, 54357

interest, and penalty imposed by this chapter. An assessment 54358
against one or more corporations shall not bar, and shall not be a 54359
waiver of, the subsequent assessment of, and collection from, any 54360
or all other corporations participating, or required to 54361
participate, in the filing of the consolidated report. 54362

Sec. 5733.056. (A) As used in this section: 54363

(1) "Billing address" means the street address where any 54364
notice, statement, ~~or~~ bill, or similar acknowledgement relating to 54365
a customer's account is ~~mailed~~ sent, as indicated in the books and 54366
records of the taxpayer on the first day of the taxable year or on 54367
such later date in the taxable year when the customer relationship 54368
began. If the notice, statement, bill, or similar acknowledgement 54369
is sent by mail to a post office box or is sent electronically or 54370
by other means to an address other than a street address, or if no 54371
notice, statement, bill, or acknowledgement is sent, the 54372
customer's street address set forth in the books and records of 54373
the taxpayer is the billing address. 54374

(2) "Borrower or credit card holder located in this state" 54375
means: 54376

(a) A borrower, other than a credit card holder, that is 54377
engaged in a trade or business and maintains its commercial 54378
domicile in this state; or 54379

(b) A borrower that is not engaged in a trade or business, or 54380
a credit card holder, whose billing address is in this state. 54381

(3) "Branch" means a "domestic branch" as defined in section 54382
3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 54383
1813(o), as amended. 54384

(4) "Compensation" means wages, salaries, commissions, and 54385
any other form of remuneration paid to employees for personal 54386
services that are included in such employee's gross income under 54387

the Internal Revenue Code. In the case of employees not subject to 54388
the Internal Revenue Code, such as those employed in foreign 54389
countries, the determination of whether such payments would 54390
constitute gross income to such employees under the Internal 54391
Revenue Code shall be made as though such employees were subject 54392
to the Internal Revenue Code. 54393

(5) "Credit card" means a credit, travel, or entertainment 54394
card. 54395

(6) "Credit card issuer's reimbursement fee" means the fee a 54396
taxpayer receives from a merchant's bank because one of the 54397
persons to whom the taxpayer has issued a credit card has charged 54398
merchandise or services to the credit card. 54399

(7) "Deposits" has the meaning given in section 3 of the 54400
"Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(1), 54401
as amended. 54402

(8) "Employee" means, with respect to a particular taxpayer, 54403
any individual who under the usual common law rules applicable in 54404
determining the employer-employee relationship, has the status of 54405
an employee of that taxpayer. 54406

(9) "Gross rents" means the actual sum of money or other 54407
consideration payable for the use or possession of property. 54408
"Gross rents" includes: 54409

(a) Any amount payable for the use or possession of real 54410
property or tangible personal property whether designated as a 54411
fixed sum of money or as a percentage of receipts, profits, or 54412
otherwise; 54413

(b) Any amount payable as additional rent or in lieu of rent, 54414
such as interest, taxes, insurance, repairs, or any other amount 54415
required to be paid by the terms of a lease or other arrangement; 54416
and 54417

(c) A proportionate part of the cost of any improvement to 54418
real property made by or on behalf of the taxpayer which reverts 54419
to the owner or lessor upon termination of a lease or other 54420
arrangement. The amount to be included in gross rents is the 54421
amount of amortization or depreciation allowed in computing the 54422
taxable income base for the taxable year. However, where a 54423
building is erected on leased land, by or on behalf of the 54424
taxpayer, the value of the land is determined by multiplying the 54425
gross rent by eight, and the value of the building is determined 54426
in the same manner as if owned by the taxpayer. 54427

(d) The following are not included in the term "gross rents": 54428

(i) Reasonable amounts payable as separate charges for water 54429
and electric service furnished by the lessor; 54430

(ii) Reasonable amounts payable as service charges for 54431
janitorial services furnished by the lessor; 54432

(iii) Reasonable amounts payable for storage, provided such 54433
amounts are payable for space not designated and not under the 54434
control of the taxpayer; and 54435

(iv) That portion of any rental payment which is applicable 54436
to the space subleased from the taxpayer and not used by it. 54437

(10) "Loan" means any extension of credit resulting from 54438
direct negotiations between the taxpayer and its customer, or the 54439
purchase, in whole or in part, of such extension of credit from 54440
another. Loans include debt obligations of subsidiaries, 54441
participations, syndications, and leases treated as loans for 54442
federal income tax purposes. "Loan" does not include: properties 54443
treated as loans under section 595 of the Internal Revenue Code; 54444
futures or forward contracts; options; notional principal 54445
contracts such as swaps; credit card receivables, including 54446
purchased credit card relationships; non-interest bearing balances 54447
due from depositor institutions; cash items in the process of 54448

collection; federal funds sold; securities purchased under 54449
agreements to resell; assets held in a trading account; 54450
securities; interests in a real estate mortgage investment conduit 54451
or other mortgage-backed or asset-backed security; and other 54452
similar items. 54453

(11) "Loan secured by real property" means that fifty per 54454
cent or more of the aggregate value of the collateral used to 54455
secure a loan or other obligation, when valued at fair market 54456
value as of the time the original loan or obligation was incurred, 54457
was real property. 54458

(12) "Merchant discount" means the fee, or negotiated 54459
discount, charged to a merchant by the taxpayer for the privilege 54460
of participating in a program whereby a credit card is accepted in 54461
payment for merchandise or services sold to the card holder. 54462

(13) "Participation" means an extension of credit in which an 54463
undivided ownership interest is held on a pro rata basis in a 54464
single loan or pool of loans and related collateral. In a loan 54465
participation, the credit originator initially makes the loan and 54466
then subsequently resells all or a portion of it to other lenders. 54467
The participation may or may not be known to the borrower. 54468

(14) "Principal base of operations" with respect to 54469
transportation property means the place of more or less permanent 54470
nature from which the property is regularly directed or 54471
controlled. With respect to an employee, the "principal base of 54472
operations" means the place of more or less permanent nature from 54473
which the employee regularly (a) starts work and to which the 54474
employee customarily returns in order to receive instructions from 54475
the employer or (b) communicates with the employee's customers or 54476
other persons or (c) performs any other functions necessary to the 54477
exercise of the trade or profession at some other point or points. 54478

(15) "Qualified institution" means a financial institution 54479

that on or after June 1, 1997: 54480

(a)(i) Has consummated one or more approved transactions with 54481
insured banks with different home states that would qualify under 54482
section 102 of the "Riegle-Neal Interstate Banking and Branching 54483
Efficiency Act of 1994," Public Law 103-328, 108 Stat. 2338; 54484

(ii) Is a federal savings association or federal savings bank 54485
that has consummated one or more interstate acquisitions that 54486
result in a financial institution that has branches in more than 54487
one state; or 54488

(iii) Has consummated one or more approved interstate 54489
acquisitions under authority of Title XI of the Revised Code that 54490
result in a financial institution that has branches in more than 54491
one state; and 54492

(b) Has at least nine per cent of its deposits in this state 54493
as of the last day of June prior to the beginning of the tax year. 54494

(16) "Real property owned" and "tangible personal property 54495
owned" mean real and tangible personal property, respectively, on 54496
which the taxpayer may claim depreciation for federal income tax 54497
purposes, or to which the taxpayer holds legal title and on which 54498
no other person may claim depreciation for federal income tax 54499
purposes, or could claim depreciation if subject to federal income 54500
tax. Real and tangible personal property do not include coin, 54501
currency, or property acquired in lieu of or pursuant to a 54502
foreclosure. 54503

(17) "Regular place of business" means an office at which the 54504
taxpayer carries on its business in a regular and systematic 54505
manner and which is continuously maintained, occupied, and used by 54506
employees of the taxpayer. 54507

(18) "State" means a state of the United States, the District 54508
of Columbia, the commonwealth of Puerto Rico, or any territory or 54509
possession of the United States. 54510

(19) "Syndication" means an extension of credit in which two 54511
or more persons fund and each person is at risk only up to a 54512
specified percentage of the total extension of credit or up to a 54513
specified dollar amount. 54514

(20) "Transportation property" means vehicles and vessels 54515
capable of moving under their own power, such as aircraft, trains, 54516
water vessels and motor vehicles, as well as any equipment or 54517
containers attached to such property, such as rolling stock, 54518
barges, trailers, or the like. 54519

(21) "Commissions earned" includes, but is not limited to, 54520
brokerage commissions, asset management fees, and similar fees 54521
charged in the regular course of business to a customer for the 54522
maintenance and management of the customer's brokerage account. 54523

(B) The annual financial institution report determines the 54524
value of the issued and outstanding shares of stock of the 54525
taxpayer, and is the base or measure of the franchise tax 54526
liability. Such determination shall be made as of the date shown 54527
by the report to have been the beginning of the financial 54528
institution's annual accounting period that includes the first day 54529
of January of the tax year. For purposes of this section, division 54530
(A) of section 5733.05, and division (D) of section 5733.06 of the 54531
Revised Code, the value of the issued and outstanding shares of 54532
stock of the financial institution shall include the total value, 54533
as shown by the books of the financial institution, of its 54534
capital, surplus, whether earned or unearned, undivided profits, 54535
and reserves, but exclusive of: 54536

(1) Reserves for accounts receivable, depreciation, 54537
depletion, and any other valuation reserves with respect to 54538
specific assets; 54539

(2) Taxes due and payable during the year for which such 54540
report was made; 54541

(3) Voting stock and participation certificates in 54542
corporations chartered pursuant to the "Farm Credit Act of 1971," 54543
85 Stat. 597, 12 U.S.C. 2091, as amended; 54544

(4) Good will, net aggregate appreciation under the equity 54545
method of accounting of investments in the capital stock of 54546
directly owned first-tier affiliates, and abandoned property as 54547
set up in the annual report of the financial institution, provided 54548
a certified balance sheet of the company is made available upon 54549
the request of the tax commissioner. Such balance sheet shall not 54550
be a part of the public records, but shall be a confidential 54551
report for use of the tax commissioner only. 54552

(5) A portion of the value of the issued and outstanding 54553
shares of stock of such financial institution equal to the amount 54554
obtained by multiplying such value by the quotient obtained by: 54555

(a) Dividing (1) the amount of the financial institution's 54556
assets, as shown on its books, represented by investments in the 54557
capital stock and indebtedness of public utilities, except 54558
combined companies or electric companies, telephone companies for 54559
tax years 2005 or thereafter, or water transportation companies 54560
for tax years 2004 and thereafter, of which at least eighty per 54561
cent of the utility's issued and outstanding common stock is owned 54562
by the financial institution by (2) the total assets of such 54563
financial institution as shown on its books; 54564

(b) Dividing (1) the amount of the financial institution's 54565
assets, as shown on its books, represented by investments in the 54566
capital stock and indebtedness of insurance companies of which at 54567
least eighty per cent of the insurance company's issued and 54568
outstanding common stock is owned by the financial institution by 54569
(2) the total assets of such financial institution as shown on its 54570
books; 54571

(c) Dividing (1) the amount of the financial institution's 54572

assets, as shown on its books, represented by investments in the 54573
capital stock and indebtedness of other financial institutions of 54574
which at least twenty-five per cent of the other financial 54575
institution's issued and outstanding common stock is owned by the 54576
financial institution by (2) the total assets of the financial 54577
institution as shown on its books. Division (B)(5)(c) of this 54578
section applies only with respect to such other financial 54579
institutions that for the tax year immediately following the 54580
taxpayer's taxable year will pay the tax imposed by division (D) 54581
of section 5733.06 of the Revised Code. 54582

(6) Land that has been determined pursuant to section 5713.31 54583
of the Revised Code by the county auditor of the county in which 54584
the land is located to be devoted exclusively to agricultural use 54585
as of the first Monday of June in the financial institution's 54586
taxable year. 54587

(7) Property within this state used exclusively during the 54588
taxable year for qualified research as defined in section 5733.05 54589
of the Revised Code. 54590

(C) The base upon which the tax levied under division (D) of 54591
section 5733.06 of the Revised Code shall be computed by 54592
multiplying the value of a financial institution's issued and 54593
outstanding shares of stock as determined in division (B) of this 54594
section by a fraction. The numerator of the fraction is the sum of 54595
the following: the property factor multiplied by fifteen, the 54596
payroll factor multiplied by fifteen, and the sales factor 54597
multiplied by seventy. The denominator of the fraction is one 54598
hundred, provided that the denominator shall be reduced by fifteen 54599
if the property factor has a denominator of zero, by fifteen if 54600
the payroll factor has a denominator of zero, and by seventy if 54601
the sales factor has a denominator of zero. 54602

(D) A financial institution shall calculate the property 54603
factor as follows: 54604

(1) The property factor is a fraction, the numerator of which is the average value of real property and tangible personal property rented to the taxpayer that is located or used within this state during the taxable year, the average value of real and tangible personal property owned by the taxpayer that is located or used within this state during the taxable year, and the average value of the taxpayer's loans and credit card receivables that are located within this state during the taxable year; and the denominator of which is the average value of all such property located or used within and without this state during the taxable year.

(2)(a) The value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of such property for federal income tax purposes without regard to depletion, depreciation, or amortization.

(b) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged-off in whole or in part for federal income tax purposes, the portion of the loan charged-off is not outstanding. A specifically allocated reserve established pursuant to financial accounting guidelines which is treated as charged-off for federal income tax purposes shall be treated as charged-off for purposes of this section.

(c) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged-off in whole or in part for federal income tax purposes, the portion of the receivable charged-off is not outstanding.

(3) The average value of property owned by the taxpayer is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value on the last day of

the taxable year and dividing the sum by two. If averaging on this 54636
basis does not properly reflect average value, the tax 54637
commissioner may require averaging on a more frequent basis. The 54638
taxpayer may elect to average on a more frequent basis. When 54639
averaging on a more frequent basis is required by the tax 54640
commissioner or is elected by the taxpayer, the same method of 54641
valuation must be used consistently by the taxpayer with respect 54642
to property within and without this state and on all subsequent 54643
returns unless the taxpayer receives prior permission from the tax 54644
commissioner or the tax commissioner requires a different method 54645
of determining value. 54646

(4)(a) The average value of real property and tangible 54647
personal property that the taxpayer has rented from another and is 54648
not treated as property owned by the taxpayer for federal income 54649
tax purposes, shall be determined annually by multiplying the 54650
gross rents payable during the taxable year by eight. 54651

(b) Where the use of the general method described in division 54652
(D)(4)(a) of this section results in inaccurate valuations of 54653
rented property, any other method which properly reflects the 54654
value may be adopted by the tax commissioner or by the taxpayer 54655
when approved in writing by the tax commissioner. Once approved, 54656
such other method of valuation must be used on all subsequent 54657
returns unless the taxpayer receives prior approval from the tax 54658
commissioner or the tax commissioner requires a different method 54659
of valuation. 54660

(5)(a) Except as described in division (D)(5)(b) of this 54661
section, real property and tangible personal property owned by or 54662
rented to the taxpayer is considered to be located within this 54663
state if it is physically located, situated, or used within this 54664
state. 54665

(b) Transportation property is included in the numerator of 54666
the property factor to the extent that the property is used in 54667

this state. The extent an aircraft will be deemed to be used in 54668
this state and the amount of value that is to be included in the 54669
numerator of this state's property factor is determined by 54670
multiplying the average value of the aircraft by a fraction, the 54671
numerator of which is the number of landings of the aircraft in 54672
this state and the denominator of which is the total number of 54673
landings of the aircraft everywhere. If the extent of the use of 54674
any transportation property within this state cannot be 54675
determined, then the property will be deemed to be used wholly in 54676
the state in which the property has its principal base of 54677
operations. A motor vehicle will be deemed to be used wholly in 54678
the state in which it is registered. 54679

(6)(a)(i) A loan, other than a loan or advance described in 54680
division (D)(6)(d) of this section, is considered to be located 54681
within this state if it is properly assigned to a regular place of 54682
business of the taxpayer within this state. 54683

(ii) A loan is properly assigned to the regular place of 54684
business with which it has a preponderance of substantive 54685
contacts. A loan assigned by the taxpayer to a regular place of 54686
business without the state shall be presumed to have been properly 54687
assigned if: 54688

(I) The taxpayer has assigned, in the regular course of its 54689
business, such loan on its records to a regular place of business 54690
consistent with federal or state regulatory requirements; 54691

(II) Such assignment on its records is based upon substantive 54692
contacts of the load to such regular place of business; and 54693

(III) The taxpayer uses the records reflecting assignment of 54694
loans for the filing of all state and local tax returns for which 54695
an assignment of loans to a regular place of business is required. 54696

(iii) The presumption of proper assignment of a loan provided 54697
in division (D)(6)(a)(ii) of this section may be rebutted upon a 54698

showing by the tax commissioner, supported by a preponderance of 54699
the evidence, that the preponderance of substantive contacts 54700
regarding such loan did not occur at the regular place of business 54701
to which it was assigned on the taxpayer's records. When such 54702
presumption has been rebutted, the loan shall then be located 54703
within this state if (1) the taxpayer had a regular place of 54704
business within this state at the time the loan was made; and (2) 54705
the taxpayer fails to show, by a preponderance of the evidence, 54706
that the preponderance of substantive contacts regarding such loan 54707
did not occur within this state. 54708

(b) In the case of a loan which is assigned by the taxpayer 54709
to a place without this state which is not a regular place of 54710
business, it shall be presumed, subject to rebuttal by the 54711
taxpayer on a showing supported by the preponderance of evidence, 54712
that the preponderance of substantive contacts regarding the loan 54713
occurred within this state if, at the time the loan was made the 54714
taxpayer's commercial domicile was within this state. 54715

(c) To determine the state in which the preponderance of 54716
substantive contacts relating to a loan have occurred, the facts 54717
and circumstances regarding the loan at issue shall be reviewed on 54718
a case-by-case basis and consideration shall be given to such 54719
activities as the solicitation, investigation, negotiation, 54720
approval, and administration of the loan. The terms 54721
"solicitation," "investigation," "negotiation," "approval," and 54722
"administration" are defined as follows: 54723

(i) "Solicitation" is either active or passive. Active 54724
solicitation occurs when an employee of the taxpayer initiates the 54725
contact with the customer. Such activity is located at the regular 54726
place of business which the taxpayer's employee is regularly 54727
connected with or working out of, regardless of where the services 54728
of such employee were actually performed. Passive solicitation 54729
occurs when the customer initiates the contact with the taxpayer. 54730

If the customer's initial contact was not at a regular place of 54731
business of the taxpayer, the regular place of business, if any, 54732
where the passive solicitation occurred is determined by the facts 54733
in each case. 54734

(ii) "Investigation" is the procedure whereby employees of 54735
the taxpayer determine the creditworthiness of the customer as 54736
well as the degree of risk involved in making a particular 54737
agreement. Such activity is located at the regular place of 54738
business which the taxpayer's employees are regularly connected 54739
with or working out of, regardless of where the services of such 54740
employees were actually performed. 54741

(iii) Negotiation is the procedure whereby employees of the 54742
taxpayer and its customer determine the terms of the agreement, 54743
such as the amount, duration, interest rate, frequency of 54744
repayment, currency denomination, and security required. Such 54745
activity is located at the regular place of business to which the 54746
taxpayer's employees are regularly connected or working from, 54747
regardless of where the services of such employees were actually 54748
performed. 54749

(iv) "Approval" is the procedure whereby employees or the 54750
board of directors of the taxpayer make the final determination 54751
whether to enter into the agreement. Such activity is located at 54752
the regular place of business to which the taxpayer's employees 54753
are regularly connected or working from, regardless of where the 54754
services of such employees were actually performed. If the board 54755
of directors makes the final determination, such activity is 54756
located at the commercial domicile of the taxpayer. 54757

(v) "Administration" is the process of managing the account. 54758
This process includes bookkeeping, collecting the payments, 54759
corresponding with the customer, reporting to management regarding 54760
the status of the agreement, and proceeding against the borrower 54761
or the security interest if the borrower is in default. Such 54762

activity is located at the regular place of business that oversees 54763
this activity. 54764

(d) A loan or advance to a subsidiary corporation at least 54765
fifty-one per cent of whose common stock is owned by the financial 54766
institution shall be allocated in and out of the state by the 54767
application of a ratio whose numerator is the sum of the net book 54768
value of the subsidiary's real property owned in this state and 54769
the subsidiary's tangible personal property owned in this state 54770
and whose denominator is the sum of the subsidiary's real property 54771
owned wherever located and the subsidiary's tangible personal 54772
property owned wherever located. For purposes of calculating this 54773
ratio, the taxpayer shall determine net book value in accordance 54774
with generally accepted accounting principles. If the subsidiary 54775
corporation owns at least fifty-one per cent of the common stock 54776
of another corporation, the ratio shall be calculated by including 54777
the other corporation's real property and tangible personal 54778
property. The calculation of the ratio applies with respect to all 54779
lower-tiered subsidiaries, provided that the immediate parent 54780
corporation of the subsidiary owns at least fifty-one per cent of 54781
the common stock of that subsidiary. 54782

(7) For purposes of determining the location of credit card 54783
receivables, credit card receivables shall be treated as loans and 54784
shall be subject to division (D)(6) of this section. 54785

(8) A loan that has been properly assigned to a state shall, 54786
absent any change of material fact, remain assigned to that state 54787
for the length of the original term of the loan. Thereafter, the 54788
loan may be properly assigned to another state if the loan has a 54789
preponderance of substantive contact to a regular place of 54790
business there. 54791

(E) A financial institution shall calculate the payroll 54792
factor as follows: 54793

(1) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid both within and without this state during the taxable year.

(2) Compensation is paid in this state if any one of the following tests, applied consecutively, is met:

(a) The employee's services are performed entirely within this state.

(b) The employee's services are performed both within and without this state, but the service performed without this state is incidental to the employee's service within this state. The term "incidental" means any service which is temporary or transitory in nature, or which is rendered in connection with an isolated transaction.

(c) The employee's services are performed both within and without this state, and:

(i) The employee's principal base of operations is within this state; or

(ii) There is no principal base of operations in any state in which some part of the services are performed, but the place from which the services are directed or controlled is in this state; or

(iii) The principal base of operations and the place from which the services are directed or controlled are not in any state in which some part of the service is performed but the employee's residence is in this state.

(F) A Except as set forth in division (I) of this section, a financial institution shall calculate the sales factor as follows:

(1) The sales factor is a fraction, the numerator of which is the receipts of the taxpayer in this state during the taxable year

and the denominator of which is the receipts of the taxpayer 54824
within and without this state during the taxable year. The method 54825
of calculating receipts for purposes of the denominator is the 54826
same as the method used in determining receipts for purposes of 54827
the numerator. 54828

(2) The numerator of the sales factor includes receipts from 54829
the lease or rental of real property owned by the taxpayer if the 54830
property is located within this state, or receipts from the 54831
sublease of real property if the property is located within this 54832
state. 54833

(3)(a) Except as described in division (F)(3)(b) of this 54834
section the numerator of the sales factor includes receipts from 54835
the lease or rental of tangible personal property owned by the 54836
taxpayer if the property is located within this state when it is 54837
first placed in service by the lessee. 54838

(b) Receipts from the lease or rental of transportation 54839
property owned by the taxpayer are included in the numerator of 54840
the sales factor to the extent that the property is used in this 54841
state. The extent an aircraft will be deemed to be used in this 54842
state and the amount of receipts that is to be included in the 54843
numerator of this state's sales factor is determined by 54844
multiplying all the receipts from the lease or rental of the 54845
aircraft by a fraction, the numerator of which is the number of 54846
landings of the aircraft in this state and the denominator of 54847
which is the total number of landings of the aircraft. If the 54848
extent of the use of any transportation property within this state 54849
cannot be determined, then the property will be deemed to be used 54850
wholly in the state in which the property has its principal base 54851
of operations. A motor vehicle will be deemed to be used wholly in 54852
the state in which it is registered. 54853

(4)(a) The numerator of the sales factor includes interest 54854
and fees or penalties in the nature of interest from loans secured 54855

by real property if the property is located within this state. If 54856
the property is located both within this state and one or more 54857
other states, the receipts described in this paragraph are 54858
included in the numerator of the sales factor if more than fifty 54859
per cent of the fair market value of the real property is located 54860
within this state. If more than fifty per cent of the fair market 54861
value of the real property is not located within any one state, 54862
then the receipts described in this paragraph shall be included in 54863
the numerator of the sales factor if the borrower is located in 54864
this state. 54865

(b) The determination of whether the real property securing a 54866
loan is located within this state shall be made as of the time the 54867
original agreement was made and any and all subsequent 54868
substitutions of collateral shall be disregarded. 54869

(5) The numerator of the sales factor includes interest and 54870
fees or penalties in the nature of interest from loans not secured 54871
by real property if the borrower is located in this state. 54872

(6) The numerator of the sales factor includes net gains from 54873
the sale of loans. Net gains from the sale of loans includes 54874
income recorded under the coupon stripping rules of section 1286 54875
of the Internal Revenue Code. 54876

(a) The amount of net gains, but not less than zero, from the 54877
sale of loans secured by real property included in the numerator 54878
is determined by multiplying such net gains by a fraction the 54879
numerator of which is the amount included in the numerator of the 54880
sales factor pursuant to division (F)(4) of this section and the 54881
denominator of which is the total amount of interest and fees or 54882
penalties in the nature of interest from loans secured by real 54883
property. 54884

(b) The amount of net gains, but not less than zero, from the 54885
sale of loans not secured by real property included in the 54886

numerator is determined by multiplying such net gains by a 54887
fraction the numerator of which is the amount included in the 54888
numerator of the sales factor pursuant to division (F)(5) of this 54889
section and the denominator of which is the total amount of 54890
interest and fees or penalties in the nature of interest from 54891
loans not secured by real property. 54892

(7) The numerator of the sales factor includes interest and 54893
fees or penalties in the nature of interest from credit card 54894
receivables and receipts from fees charged to card holders, such 54895
as annual fees, if the billing address of the card holder is in 54896
this state. 54897

(8) The numerator of the sales factor includes net gains, but 54898
not less than zero, from the sale of credit card receivables 54899
multiplied by a fraction, the numerator of which is the amount 54900
included in the numerator of the sales factor pursuant to division 54901
(F)(7) of this section and the denominator of which is the 54902
taxpayer's total amount of interest and fees or penalties in the 54903
nature of interest from credit card receivables and fees charged 54904
to card holders. 54905

(9) The numerator of the sales factor includes all credit 54906
card issuer's reimbursement fees multiplied by a fraction, the 54907
numerator of which is the amount included in the numerator of the 54908
sales factor pursuant to division (F)(7) of this section and the 54909
denominator of which is the taxpayer's total amount of interest 54910
and fees or penalties in the nature of interest from credit card 54911
receivables and fees charged to card holders. 54912

(10) The numerator of the sales factor includes receipts from 54913
merchant discount if the commercial domicile of the merchant is in 54914
this state. Such receipts shall be computed net of any card holder 54915
charge backs, but shall not be reduced by any interchange 54916
transaction fees or by any issuer's reimbursement fees paid to 54917
another for charges made by its card holders. 54918

(11)(a)(i) The numerator of the sales factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(ii) The numerator of the sales factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(5) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(b) In circumstances in which the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the sales factor shall include such fees if the borrower is located in this state.

(12) The numerator of the sales factor includes receipts from services not otherwise apportioned under this section if the service is performed in this state. If the service is performed both within and without this state, the numerator of the sales factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income producing activity is performed in this state based on cost of performance.

(13)(a) Interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities shall be included in the sales factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities;

trading account assets; federal funds; securities purchased and 54950
sold under agreements to resell or repurchase; options; futures 54951
contracts; forward contracts; notional principal contracts such as 54952
swaps; equities; and foreign currency transactions. With respect 54953
to the investment and trading assets and activities described in 54954
divisions (F)(13)(a)(i) and (ii) of this section, the sales factor 54955
shall include the amounts described in such divisions. 54956

(i) The sales factor shall include the amount by which 54957
interest from federal funds sold and securities purchased under 54958
resale agreements exceeds interest expense on federal funds 54959
purchased and securities sold under repurchase agreements. 54960

(ii) The sales factor shall include the amount by which 54961
interest, dividends, gains, and other income from trading assets 54962
and activities, including, but not limited to, assets and 54963
activities in the matched book, in the arbitrage book, and foreign 54964
currency transactions, exceed amounts paid in lieu of interest, 54965
amounts paid in lieu of dividends, and losses from such assets and 54966
activities. 54967

(b) The numerator of the sales factor includes interest, 54968
dividends, net gains, but not less than zero, and other income 54969
from investment assets and activities and from trading assets and 54970
activities described in division (F)(13)(a) of this section that 54971
are attributable to this state. 54972

(i) The amount of interest, other than interest described in 54973
division (F)(13)(b)(iv) of this section, dividends, other than 54974
dividends described in that division, net gains, but not less than 54975
zero, and other income from investment assets and activities in 54976
the investment account to be attributed to this state and included 54977
in the numerator is determined by multiplying all such income from 54978
such assets and activities by a fraction, the numerator of which 54979
is the average value of such assets which are properly assigned to 54980
a regular place of business of the taxpayer within this state and 54981

the denominator of which is the average value of all such assets. 54982

(ii) The amount of interest from federal funds sold and 54983
purchased and from securities purchased under resale agreements 54984
and securities sold under repurchase agreements attributable to 54985
this state and included in the numerator is determined by 54986
multiplying the amount described in division (F)(13)(a)(i) of this 54987
section from such funds and such securities by a fraction, the 54988
numerator of which is the average value of federal funds sold and 54989
securities purchased under agreements to resell which are properly 54990
assigned to a regular place of business of the taxpayer within 54991
this state and the denominator of which is the average value of 54992
all such funds and such securities. 54993

(iii) The amount of interest, dividends, gains, and other 54994
income from trading assets and activities, including but not 54995
limited to assets and activities in the matched book, in the 54996
arbitrage book, and foreign currency transaction, but excluding 54997
amounts described in division (F)(13)(b)(i) or (ii) of this 54998
section, attributable to this state and included in the numerator 54999
is determined by multiplying the amount described in division 55000
(F)(13)(a)(ii) of this section by a fraction, the numerator of 55001
which is the average value of such trading assets which are 55002
properly assigned to a regular place of business of the taxpayer 55003
within this state and the denominator of which is the average 55004
value of all such assets. 55005

(iv) The amount of dividends received on the capital stock 55006
of, and the amount of interest received from loans and advances 55007
to, subsidiary corporations at least fifty-one per cent of whose 55008
common stock is owned by the reporting financial institution shall 55009
be allocated in and out of this state by the application of a 55010
ratio whose numerator is the sum of the net book value of the 55011
payor's real property owned in this state and the payor's tangible 55012
personal property owned in this state and whose denominator is the 55013

sum of the net book value of the payor's real property owned 55014
wherever located and the payor's tangible personal property owned 55015
wherever located. For purposes of calculating this ratio, the 55016
taxpayer shall determine net book value in accordance with 55017
generally accepted accounting principles. 55018

(v) For purposes of this division, average value shall be 55019
determined using the rules for determining the average value of 55020
tangible personal property set forth in division (D)(2) and (3) of 55021
this section. 55022

(c) In lieu of using the method set forth in division 55023
(F)(13)(b) of this section, the taxpayer may elect, or the tax 55024
commissioner may require in order to fairly represent the business 55025
activity of the taxpayer in this state, the use of the method set 55026
forth in division (F)(13)(c) of this section. 55027

(i) The amount of interest, other than interest described in 55028
division (F)(13)(b)(iv) of this section, dividends, other than 55029
dividends described in that division, net gains, but not less than 55030
zero, and other income from investment assets and activities in 55031
the investment account to be attributed to this state and included 55032
in the numerator is determined by multiplying all such income from 55033
such assets and activities by a fraction, the numerator of which 55034
is the gross income from such assets and activities which are 55035
properly assigned to a regular place of business of the taxpayer 55036
within this state, and the denominator of which is the gross 55037
income from all such assets and activities. 55038

(ii) The amount of interest from federal funds sold and 55039
purchased and from securities purchased under resale agreements 55040
and securities sold under repurchase agreements attributable to 55041
this state and included in the numerator is determined by 55042
multiplying the amount described in division (F)(13)(a)(i) of this 55043
section from such funds and such securities by a fraction, the 55044
numerator of which is the gross income from such funds and such 55045

securities which are properly assigned to a regular place of 55046
business of the taxpayer within this state and the denominator of 55047
which is the gross income from all such funds and such securities. 55048

(iii) The amount of interest, dividends, gains, and other 55049
income from trading assets and activities, including, but not 55050
limited to, assets and activities in the matched book, in the 55051
arbitrage book, and foreign currency transactions, but excluding 55052
amounts described in division (F)(13)(a)(i) or (ii) of this 55053
section, attributable to this state and included in the numerator, 55054
is determined by multiplying the amount described in division 55055
(F)(13)(a)(ii) of this section by a fraction, the numerator of 55056
which is the gross income from such trading assets and activities 55057
which are properly assigned to a regular place of business of the 55058
taxpayer within this state and the denominator of which is the 55059
gross income from all such assets and activities. 55060

(iv) The amount of dividends received on the capital stock 55061
of, and the amount of interest received from loans and advances 55062
to, subsidiary corporations at least fifty-one per cent of whose 55063
common stock is owned by the reporting financial institution shall 55064
be allocated in and out of this state by the application of a 55065
ratio whose numerator is the sum of the net book value of the 55066
payor's real property owned in this state and the payor's tangible 55067
personal property owned in this state and whose denominator is the 55068
sum of the payor's real property owned wherever located and the 55069
payor's tangible personal property owned wherever located. For 55070
purposes of calculating this ratio, the taxpayer shall determine 55071
net book value in accordance with generally accepted accounting 55072
principles. 55073

(d) If the taxpayer elects or is required by the tax 55074
commissioner to use the method set forth in division (F)(13)(c) of 55075
this section, it shall use this method on all subsequent returns 55076
unless the taxpayer receives prior permission from the tax 55077

commissioner to use or the tax commissioner requires a different 55078
method. 55079

(e) The taxpayer shall have the burden of proving that an 55080
investment asset or activity or trading asset or activity was 55081
properly assigned to a regular place of business outside of this 55082
state by demonstrating that the day-to-day decisions regarding the 55083
asset or activity occurred at a regular place of business outside 55084
this state. Where the day-to-day decisions regarding an investment 55085
asset or activity or trading asset or activity occur at more than 55086
one regular place of business and one such regular place of 55087
business is in this state and one such regular place of business 55088
is outside this state such asset or activity shall be considered 55089
to be located at the regular place of business of the taxpayer 55090
where the investment or trading policies or guidelines with 55091
respect to the asset or activity are established. Unless the 55092
taxpayer demonstrates to the contrary, such policies and 55093
guidelines shall be presumed to be established at the commercial 55094
domicile of the taxpayer. 55095

(14) The numerator of the sales factor includes receipts from 55096
commissions earned on brokerage accounts owned by customers having 55097
a billing address in this state. 55098

(15) The numerator of the sales factor includes all other 55099
receipts if either: 55100

(a) The income-producing activity is performed solely in this 55101
state; or 55102

(b) The income-producing activity is performed both within 55103
and without this state and a greater proportion of the 55104
income-producing activity is performed within this state than in 55105
any other state, based on costs of performance. 55106

(G) A qualified institution may calculate the base upon which 55107
the fee provided for in division (D) of section 5733.06 of the 55108

Revised Code is determined for each tax year by multiplying the 55109
value of its issued and outstanding shares of stock determined 55110
under division (B) of this section by a single deposits fraction 55111
whose numerator is the deposits assigned to branches in this state 55112
and whose denominator is the deposits assigned to branches 55113
everywhere. Deposits shall be assigned to branches in the same 55114
manner in which the assignment is made for regulatory purposes. If 55115
the base calculated under this division is less than the base 55116
calculated under division (C) of this section, then the qualifying 55117
institution may elect to substitute the base calculated under this 55118
division for the base calculated under division (C) of this 55119
section. Such election may be made annually for each tax year on 55120
the corporate report. The election need not accompany the report; 55121
rather, the election may accompany a subsequently filed but timely 55122
application for refund, a subsequently filed but timely amended 55123
report, or a subsequently filed but timely petition for 55124
reassessment. The election is not irrevocable and it applies only 55125
to the specified tax year. Nothing in this division shall be 55126
construed to extend any statute of limitations set forth in this 55127
chapter. 55128

(H) If the apportionment provisions of this section do not 55129
fairly represent the extent of the taxpayer's business activity in 55130
this state, the taxpayer may petition for or the tax commissioner 55131
may require, in respect to all or any part of the taxpayer's 55132
business activity, if reasonable: 55133

(1) Separate accounting; 55134

(2) The exclusion of any one or more of the factors; 55135

(3) The inclusion of one or more additional factors which 55136
will fairly represent the taxpayer's business activity in this 55137
state; or 55138

(4) The employment of any other method to effectuate an 55139

equitable allocation and apportionment of the taxpayer's value. 55140

(I) If, under division (F) of this section, a receipt is 55141
included in the denominator but is not included in the numerator 55142
of the sales factor, and if, based upon the principles and 55143
concepts set forth in this section, the receipt would be sitused 55144
to a state in which the person is not liable for a tax measured on 55145
or by net worth, then the receipt shall be included in the 55146
numerator of the sales factor, notwithstanding division (F) of 55147
this section to the contrary, if the activity or property 55148
generating the receipt has more nexus with this state than with 55149
any other state in which the person is liable for a tax measured 55150
on or by net worth. 55151

Sec. 5733.057. As used in this section, "adjusted qualifying 55152
amount" has the same meaning as in section 5733.40 of the Revised 55153
Code. 55154

This section does not apply to division (F) of section 55155
5733.051 of the Revised Code. 55156

Except as otherwise provided in divisions (A) and (B) of 55157
section 5733.401 and in sections 5733.058 and 5747.401 of the 55158
Revised Code, in making all apportionment, allocation, income, 55159
gain, loss, deduction, tax, and credit computations under this 55160
chapter and under sections 5747.41 and 5747.43 of the Revised 55161
Code, each person shall include in that person's items of business 55162
income, nonbusiness income, adjusted qualifying amounts, allocable 55163
income or loss, if any, apportionable income or loss, property, 55164
compensation, and sales, the person's entire distributive share or 55165
proportionate share of the items of business income, nonbusiness 55166
income, adjusted qualifying amounts, allocable income or loss, 55167
apportionable income or loss, property, compensation, and sales of 55168
any pass-through entity in which the person has a direct or 55169
indirect ownership interest at any time during the pass-through 55170

entity's calendar or fiscal year ending within, or with the last 55171
day of the person's taxable year. A pass-through entity's direct 55172
or indirect distributive share or proportionate share of any other 55173
pass-through entity's items of business income, nonbusiness 55174
income, adjusted qualifying amounts, allocable income or loss, 55175
apportionable income or loss, property, compensation, and sales 55176
shall be included for the purposes of computing the person's 55177
distributive share or proportionate share of the pass-through 55178
entity's items of business income, nonbusiness income, adjusted 55179
qualifying amounts, allocable income or loss, apportionable income 55180
or loss, property, compensation, and sales under this section. 55181
Those items shall be in the same form as was recognized by the 55182
pass-through entity. 55183

Sec. 5733.059. (A) As used in this section: 55184

(1) "Customer" means a person who purchases electricity for 55185
consumption either by that person or by the person's related 55186
member and the electricity is not for resale directly or 55187
indirectly to any person other than a related member. 55188

(2) "Related member" has the same meaning as in ~~division~~ 55189
~~(A)(6)~~ of section 5733.042 of the Revised Code without regard to 55190
division (B) of that section. 55191

(B) Except as provided in division (C) of this section, this 55192
division applies only to sales of electric transmission and 55193
distribution services. For purposes of sections 5733.05 and 55194
5747.21 of the Revised Code: 55195

(1) Sales of the transmission of electricity are in this 55196
state in proportion to the ratio of the wire mileage of the 55197
taxpayer's transmission lines located in this state divided by the 55198
wire mileage of the taxpayer's transmission lines located 55199
everywhere. Transmission wire mileage shall be weighted for the 55200
voltage capacity of each line. 55201

(2) Sales of the distribution of electricity are in this state in proportion to the ratio of the wire mileage of the taxpayer's distribution lines located in this state divided by the wire mileage of the taxpayer's distribution lines located everywhere. Distribution wire mileage shall not be weighted for the voltage capacity of each line.

(C) This division applies only to a person that has transmission or distribution lines in this state. If a contract for the sale of electricity includes the seller's or the seller's related member's obligation to transmit or distribute the electricity and if the sales contract separately identifies the price charged for the transmission or distribution of electricity, the price charged for the transmission and distribution of electricity shall be apportioned to this state in accordance with division (B) of this section. Any remaining portion of the sales price of the electricity shall be situated to this state in accordance with division (D) of this section.

If the sales contract does not separately identify the price charged for the transmission or distribution of electricity, the sales price of the electricity shall be situated to this state in accordance with division (D) of this section.

(D) Any person who makes a sale of electricity shall situate the following to this state:

(1) A sale of electricity directly or indirectly to a customer to the extent the customer consumes the electricity in this state;

(2) A sale of electricity directly or indirectly to a related member where the related member directly or indirectly sells electricity to a customer to the extent the customer consumes the electricity in this state;

(3) A sale of electricity if the seller or the seller's

related member directly or indirectly delivers the electricity to 55233
a location in this state or directly or indirectly delivers the 55234
electricity exactly to the border of this state and another state; 55235

(4) A sale of electricity if the seller or the seller's 55236
related member directly or indirectly directs the delivery of the 55237
electricity to a location in this state or directly or indirectly 55238
directs the delivery of the electricity exactly to the border of 55239
this state and another state. 55240

(E) If the situsing provisions of this section do not fairly 55241
represent the extent of the taxpayer's or the taxpayer's related 55242
member's activity in this state, the taxpayer may request, or the 55243
tax commissioner may require, in respect to all or part of a 55244
taxpayer's or related member's sales, if reasonable, any of the 55245
following: 55246

(1) Separate accounting; 55247

(2) The exclusion of one or more additional situsing factors 55248
that will fairly represent the taxpayer's and the related member's 55249
sales in this state; 55250

(3) The inclusion of one or more additional situsing factors 55251
that will fairly represent the taxpayer's and the related member's 55252
sales in this state. 55253

The taxpayer's request shall be in writing and shall be filed 55254
with the report required by section 5733.02 of the Revised Code, a 55255
timely filed petition for reassessment, or a timely filed amended 55256
report. An alternative situsing method shall be effective with the 55257
approval of the tax commissioner. 55258

Nothing in this section shall be construed to extend any 55259
statute of limitations set forth in this chapter. 55260

(F) If the situsing provisions of this section do not fairly 55261
represent activity in this state, the tax commissioner may 55262

promulgate rules to situs sales using a methodology that fairly 55263
reflects sales in this state. 55264

(G) Notwithstanding ~~sections 5733.111 and 5747.131~~ section 55265
5703.56 of the Revised Code to the contrary, a person situsing a 55266
sale outside this state has the burden to establish by a 55267
preponderance of the evidence that the doctrines enumerated in 55268
those sections do not apply. 55269

Sec. 5733.06. The tax hereby charged each corporation subject 55270
to this chapter other than a financial institution shall be the 55271
greater of the following: the minimum payment required under 55272
division (E) of this section, the sum of the amounts computed 55273
under divisions (A) and (B) of this section, after the reduction, 55274
if any, provided by division (J) of this section, or the amount 55275
computed under division (C) of this section, after the reduction, 55276
if any, provided by division (J) of this section, ~~except that the~~ 55277
The tax hereby charged each financial institution subject to this 55278
chapter shall be the greater of the minimum payment required under 55279
division (E) of this section or the amount computed under division 55280
(D) of this section+. 55281

(A) ~~Except as set forth in division (F) of this section~~ For 55282
tax year 2003, five and one-tenth per cent upon the first fifty 55283
thousand dollars of the value of the taxpayer's issued and 55284
outstanding shares of stock as determined under division (B) of 55285
section 5733.05 of the Revised Code+, except as set forth in 55286
division (F) of this section, and zero for each subsequent tax 55287
year. 55288

(B) ~~Except as set forth in division (F) of this section~~ For 55289
tax year 2003, eight and one-half per cent upon the value so 55290
determined in excess of fifty thousand dollars; ~~or,~~ except as set 55291
forth in division (F) of this section, and for each subsequent tax 55292
year the following per cent upon the total value of the taxpayer's 55293

<u>issued and outstanding shares of stock as determined under</u>	55294
<u>division (B) of section 5733.05 of the Revised Code:</u>	55295
<u>(1) For tax year 2004, eight and one-half per cent;</u>	55296
<u>(2) For tax year 2005, eight per cent;</u>	55297
<u>(3) For tax year 2006, seven and one-half per cent;</u>	55298
<u>(4) For tax year 2007 and each subsequent tax year, seven per</u>	55299
<u>cent.</u>	55300
(C)(1) Except as otherwise provided under division (G) of	55301
this section, four mills times that portion of the value of the	55302
issued and outstanding shares of stock as determined under	55303
division (C) of section 5733.05 of the Revised Code. For for tax	55304
<u>year 2003, and for each subsequent tax year two mills times the</u>	55305
<u>first one million dollars of such value plus three mills times the</u>	55306
<u>next one million five hundred thousand dollars of such value plus</u>	55307
<u>four mills times any such value in excess of two million five</u>	55308
<u>hundred thousand dollars.</u>	55309
<u>For</u> the purposes of division (C) of this section, division	55310
(C)(2) of section 5733.065, and division (C) of section 5733.066	55311
of the Revised Code, the value of the issued and outstanding	55312
shares of stock of an eligible corporation for tax year 2003	55313
through tax year 2007, or of a qualified holding company <u>not</u>	55314
<u>participating, and not required to participate, in the filing of a</u>	55315
<u>consolidated report described in section 5733.052 of the Revised</u>	55316
<u>Code, is zero.</u>	55317
(2) As used in division (C) of this section, "eligible	55318
corporation" means a person treated as a corporation for federal	55319
income tax purposes that meets all of the following criteria:	55320
(a) The corporation conducts business for an entire taxable	55321
year as a qualified trade or business as defined by division (C)	55322
of section 122.15 of the Revised Code.	55323

(b) The corporation uses more than fifty per cent of the corporation's assets, based on net book value, that are located in Ohio solely to conduct activities that constitute a qualified trade or business as defined by section 122.15 of the Revised Code.

(c) The corporation has been formed or organized not more than three years before the report required to be filed by section 5733.02 of the Revised Code is due, without regard to any extensions.

(d) The corporation is not a related member, as defined in section 5733.042 of the Revised Code, at any time during the taxable year with respect to another person treated as a corporation for federal income tax purposes. A corporation is not a related member if during the entire taxable year at least seventy-five per cent of the corporation's stock is owned directly or through a pass-through entity by individuals, estates, and grantor trusts, and the individuals, estates, and grantor trusts do not directly or indirectly own more than twenty per cent of the value of another person treated as a corporation for federal income tax purposes that is conducting a qualified trade or business.

(D) The tax charged each financial institution subject to this chapter shall be that portion of the value of the issued and outstanding shares of stock as determined under division (A) of section 5733.05 of the Revised Code, multiplied by ~~the following amounts:~~

~~(1) For tax years prior to the 1999 tax year, fifteen mills;~~

~~(2) For the 1999 tax year, fourteen mills;~~

~~(3) For tax year 2000 and thereafter, thirteen mills.~~

(E) ~~No~~ (1) Except as set forth in division (E)(2) of this

section, the tax shall be charged from any corporation that has 55354
been adjudicated bankrupt, or for which a receiver has been 55355
appointed, or that has made a general assignment for the benefit 55356
of creditors, except for the portion of the then current tax year 55357
during which the tax commissioner finds such corporation had the 55358
power to exercise its corporate franchise unimpaired by such 55359
proceedings or act. The minimum payment for ~~all corporations~~ each 55360
corporation shall be fifty dollars for each tax year through tax 55361
year 2003, and three hundred dollars for each tax year thereafter. 55362

(2) With respect to corporations participating, or required 55363
to participate, in the filing of a consolidated report as 55364
described in section 5733.052 of the Revised Code, division (E)(1) 55365
of this section applies only if every participating corporation, 55366
or every corporation required to participate, has been adjudicated 55367
bankrupt, has had a receiver appointed, or has made a general 55368
assignment for the benefit of creditors. 55369

~~The tax charged to corporations under this chapter for the~~ 55370
~~privilege of engaging in business in this state, which is an~~ 55371
~~excise tax levied on the value of the issued and outstanding~~ 55372
~~shares of stock, shall in no manner be construed as prohibiting or~~ 55373
~~otherwise limiting the powers of municipal corporations, joint~~ 55374
~~economic development zones created under section 715.691 of the~~ 55375
~~Revised Code, and joint economic development districts created~~ 55376
~~under section 715.70 or 715.71 or sections 715.72 to 715.81 of the~~ 55377
~~Revised Code in this state to impose an income tax on the income~~ 55378
~~of such corporations.~~ 55379

~~(F) If two or more taxpayers satisfy the ownership or control~~ 55380
~~requirements of division (A) of section 5733.052 of the Revised~~ 55381
~~Code are members of the same qualifying controlled group, each~~ 55382
~~such taxpayer shall substitute "the taxpayer's pro-rata amount"~~ 55383
~~for "fifty thousand dollars" in divisions (A) and (B) of this~~ 55384
~~section for tax year 2003 and in division (C)(1) of section~~ 55385

5733.065 and divisions (A) and (B) of section 5733.066 of the 55386
Revised Code for tax year 2003 and each subsequent tax year. For 55387
purposes of this division, "the taxpayer's pro-rata amount" is an 55388
amount that, when added to the other such taxpayers' pro-rata 55389
amounts, does not exceed fifty thousand dollars. For the purpose 55390
of making that computation, the taxpayer's pro-rata amount shall 55391
not be less than zero. Nothing in this division derogates from or 55392
eliminates the requirement to make the alternative computation of 55393
tax under division (C) of this section or under division (C)(2) of 55394
section 5733.065 or division (C) of section 5733.066 of the 55395
Revised Code. 55396

(G)(1) The tax liability of any corporation under division 55397
(C) of this section shall not exceed one hundred fifty thousand 55398
dollars for tax year 2003, and shall not exceed five hundred 55399
thousand dollars for each subsequent tax year, except as set forth 55400
in division (G)(2) of this section. 55401

(2) With respect to corporations participating in the filing 55402
of a consolidated report as described in section 5733.052 of the 55403
Revised Code, the tax liability of the consolidated group under 55404
division (C) of this section shall not exceed five hundred 55405
thousand dollars times the number of corporations described in 55406
division (B) of section 5733.01 of the Revised Code and that are 55407
participating, or required to participate, in the filing of the 55408
consolidated report. 55409

(H)(1) For the purposes of division (H) of this section, 55410
"exiting corporation" means a corporation that satisfies all of 55411
the following conditions: 55412

(a) The corporation had nexus with or in this state under the 55413
Constitution of the United States during any portion of a calendar 55414
year; 55415

(b) The corporation was not a corporation described in 55416

division (A) of section 5733.01 of the Revised Code on the first 55417
day of January immediately following that calendar year; 55418

(c) The corporation was not a financial institution on the 55419
first day of January immediately following that calendar year; 55420

(d) If the corporation was a transferor as defined in section 55421
5733.053 of the Revised Code, the corporation's transferee was not 55422
required to add to the transferee's net income the income of the 55423
transferor pursuant to division (B) of that section; 55424

(e) During any portion of that calendar year, or any portion 55425
of the immediately preceding calendar year, the corporation had 55426
net income that was not included in a report filed by the 55427
corporation or its transferee pursuant to section 5733.02, 55428
5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code; 55429

(f) The corporation would have been subject to the tax 55430
computed under divisions (A), (B), (C), (F), and (G) of this 55431
section if the corporation is assumed to be a corporation 55432
described in division (A) of section 5733.01 of the Revised Code 55433
on the first day of January immediately following the calendar 55434
year to which division (H)(1)(a) of this section refers. 55435

(2) For the purposes of division (H) of this section, 55436
"unreported net income" means net income that was not previously 55437
included in a report filed pursuant to section 5733.02, 5733.021, 55438
5733.03, 5733.031, or 5733.053 of the Revised Code and that was 55439
realized or recognized during the calendar year to which division 55440
(H)(1) of this section refers or the immediately preceding 55441
calendar year. 55442

(3) Each exiting corporation shall pay a tax computed by 55443
first allocating and apportioning the unreported net income 55444
pursuant to division (B) of section 5733.05 and section 5733.051 55445
and, if applicable, section 5733.052 of the Revised Code. The 55446
exiting corporation then shall compute the tax due on its 55447

unreported net income allocated and apportioned to this state by 55448
applying divisions (A), (B), and (F) of this section to that 55449
income. 55450

(4) Divisions (C) and (G) of this section, division (D)(2) of 55451
section 5733.065, and division (C) of section 5733.066 of the 55452
Revised Code do not apply to an exiting corporation, but exiting 55453
corporations are subject to every other provision of this chapter. 55454

(5) Notwithstanding division (B) of section 5733.01 or 55455
sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the 55456
contrary, each exiting corporation shall report and pay the tax 55457
due under division (H) of this section on or before the 55458
thirty-first day of May immediately following the calendar year to 55459
which division (H)(1)(a) of this section refers. The exiting 55460
corporation shall file that report on the form most recently 55461
prescribed by the tax commissioner for the purposes of complying 55462
with sections 5733.02 and 5733.03 of the Revised Code. Upon 55463
request by the corporation, the tax commissioner may extend the 55464
date for filing the report. 55465

(6) If, on account of the application of section 5733.053 of 55466
the Revised Code, net income is subject to the tax imposed by 55467
divisions (A) and (B) of this section, such income shall not be 55468
subject to the tax imposed by division (H)(3) of this section. 55469

(7) The amendments made to division (H) of this section by 55470
Am. Sub. S.B. 287 of the 123rd general assembly do not apply to 55471
any transfer, as defined in section 5733.053 of the Revised Code, 55472
for which negotiations began prior to January 1, 2001, and that 55473
was commenced in and completed during calendar year 2001, unless 55474
the taxpayer makes an election prior to December 31, 2001, to 55475
apply those amendments. 55476

(8) The tax commissioner may adopt rules governing division 55477
(H) of this section. 55478

(I) Any reference in the Revised Code to "the tax imposed by section 5733.06 of the Revised Code" or "the tax due under section 5733.06 of the Revised Code" includes the taxes imposed under sections 5733.065 and 5733.066 of the Revised Code.

(J)(1) Division (J) of this section applies solely to a combined company. Section 5733.057 of the Revised Code shall apply when calculating the adjustments required by division (J) of this section.

(2) Subject to division (J)(4) of this section, the total tax calculated in divisions (A) and (B) of this section shall be reduced by an amount calculated by multiplying such tax by a fraction, the numerator of which is the total taxable gross receipts attributed to providing public utility activity other than as an electric company under section 5727.03 of the Revised Code for the year upon which the taxable gross receipts are measured immediately preceding the tax year, and the denominator of which is the total gross receipts from all sources for the year upon which the taxable gross receipts are measured immediately preceding the tax year. Nothing herein shall be construed to exclude from the denominator any item of income described in section 5733.051 of the Revised Code.

(3) Subject to division (J)(4) of this section, the total tax calculated in division (C) of this section shall be reduced by an amount calculated by multiplying such tax by the fraction described in division (J)(2) of this section.

(4) In no event shall the reduction provided by division (J)(2) or ~~(J)~~(3) of this section exceed the amount of the excise tax paid in accordance with section 5727.38 of the Revised Code, for the year upon which the taxable gross receipts are measured immediately preceding the tax year.

(K) The tax charged to corporations under this chapter for

the privilege of engaging in business in this state, which is an 55510
excise tax levied on the value of the issued and outstanding 55511
shares of stock, shall in no manner be construed as prohibiting or 55512
otherwise limiting the powers of municipal corporations, joint 55513
economic development zones created under section 715.691 of the 55514
Revised Code, or joint economic development districts created 55515
under section 715.70 or 715.71 or sections 715.72 to 715.81 of the 55516
Revised Code in this state to impose an income tax on the income 55517
of such corporations. 55518

Sec. 5733.065. (A) As used in this section, "litter stream 55519
products" means: 55520

(1) Intoxicating liquor, beer, wine, mixed beverages, or 55521
spirituous liquor as defined in section 4301.01 of the Revised 55522
Code; 55523

(2) Soft drinks as defined in section 913.22 of the Revised 55524
Code; 55525

(3) Glass, metal, plastic, or fiber containers with a 55526
capacity of less than two gallons sold for the purpose of being 55527
incorporated into or becoming a part of a product enumerated in 55528
divisions (A)(1) and (2) of this section; 55529

(4) Container crowns and closures sold for the purpose of 55530
being incorporated into or becoming a part of a product enumerated 55531
in divisions (A)(1) and (2) of this section; 55532

(5) Packaging materials transferred or intended for transfer 55533
of use or possession in conjunction with retail sales of products 55534
enumerated in divisions (A)(1) and (2) of this section; 55535

(6) Packaging materials in the finished form in which they 55536
are to be used, including sacks, bags, cups, lids, straws, plates, 55537
wrappings, boxes, or containers of any type used in the packaging 55538
or serving of food or beverages, when the food or beverages are 55539

prepared for human consumption by a restaurant or take-out food 55540
outlet at the premises where sold at retail and are delivered to a 55541
purchaser for consumption off the premises where the food or 55542
beverages are sold; 55543

(7) Cigarettes, cigars, tobacco, matches, candy, and gum. 55544

(B) For the purpose of providing additional funding for the 55545
division of recycling and litter prevention under Chapter 1502. of 55546
the Revised Code, there is hereby levied an additional tax on 55547
corporations for the privilege of manufacturing or selling litter 55548
stream products in this state. The tax imposed by this section is 55549
in addition to the tax charged under section 5733.06 of the 55550
Revised Code, computed at the rate prescribed by section 5733.066 55551
of the Revised Code. This section does not apply for tax year 1981 55552
to a corporation whose taxable year for tax year 1981 ended on or 55553
before June 30, 1980. 55554

(C) The tax shall be imposed upon each corporation subject to 55555
the tax imposed by section 5733.06 of the Revised Code that 55556
manufactures or sells litter stream products in this state. The 55557
tax for each year shall be in an amount equal to the greater of 55558
either: 55559

(1) ~~Twenty-two~~ Except as set forth in division (F) of section 55560
5733.06 of the Revised Code, twenty-two hundredths of one per cent 55561
upon the value of that portion, in excess of fifty thousand 55562
dollars, of the taxpayer's issued and outstanding shares of stock 55563
as determined under division (B) of section 5733.05 of the Revised 55564
Code ~~that is subject to the rate contained in division (B) of~~ 55565
~~section 5733.06 of the Revised Code;~~ 55566

(2) Fourteen one-hundredths of a mill times the value of the 55567
taxpayer's issued and outstanding shares of stock as determined 55568
under division (C) of section 5733.05 of the Revised Code. 55569

The additional tax charged any taxpayer or group of combined 55570

taxpayers pursuant to this section for any tax year shall not 55571
exceed five thousand dollars. 55572

(D)(1) In the case of a corporation engaged in the business 55573
of manufacturing litter stream products, no tax shall be due under 55574
this section unless the sale of litter stream products in this 55575
state during the taxable year exceeds five per cent of the total 55576
sales in this state of the corporation during that period or 55577
unless the total sales in this state of litter stream products by 55578
the corporation during the taxable year exceed ten million 55579
dollars. 55580

(2) In the case of a corporation engaged in the business of 55581
selling litter stream products in the form in which the item is or 55582
is to be received, no tax shall be due under this section unless 55583
the corporation's sales of litter stream products in this state 55584
during the taxable year constitute more than five per cent of its 55585
total sales in this state during that period. 55586

(3) In the case of a corporation transferring possession of 55587
litter stream products included in division (A)(6) of this 55588
section, in which food or beverages prepared for human consumption 55589
are placed, when the food or beverages are prepared for retail 55590
sale at the premises where sold and are delivered to a purchaser 55591
for consumption off the premises where the food or beverages are 55592
sold, no tax shall be due under this section unless such sales for 55593
off-premises consumption during the taxable year exceed five per 55594
cent of the corporation's total annual sales during the taxable 55595
year. 55596

(E)(1) The tax imposed by this section is due in the 55597
proportions and on the dates on which the tax imposed by section 55598
5733.06 of the Revised Code may be paid without penalty. 55599

(2) Payment of the tax and any reports or returns required to 55600
enable the tax commissioner to determine the correct amount of the 55601

tax shall be submitted with and are due at the same time as 55602
payments and reports required to be submitted under this chapter. 55603

(3) If the tax is not paid in full on or before the date 55604
required by division (E)(1) of this section, the unpaid portion of 55605
the tax due and unpaid shall be subject to all provisions of this 55606
chapter for the collection of unpaid, delinquent taxes imposed by 55607
section 5733.06 of the Revised Code, except that all such taxes, 55608
interest, and penalties, when collected, shall be treated as 55609
proceeds arising from the tax imposed by this section and shall be 55610
deposited in the general revenue fund. 55611

The tax levied on corporations under this section does not 55612
prohibit or otherwise limit the authority of municipal 55613
corporations to impose an income tax on the income of such 55614
corporations. 55615

Sec. 5733.066. There To provide funding for the division of 55616
recycling and litter prevention under Chapter 1502. of the Revised 55617
Code, there shall be added to the rates contained in tax charged 55618
by section 5733.06 of the Revised Code the following greater of 55619
the sum of divisions (A) and (B) of this section or division (C) 55620
of this section: 55621

(A) ~~To the rate~~ Except as set forth in division ~~(A)~~(F) of 55622
~~that~~ section 5733.06 of the Revised Code, eleven-hundredths per 55623
cent upon that portion the first fifty thousand dollars of the 55624
value of the taxpayer's issued and outstanding shares of stock as 55625
determined under division (B) of section 5733.05 of the Revised 55626
Code ~~that is subject to such rate, an additional eleven hundredths~~ 55627
~~per cent upon that value to provide funding for the division of~~ 55628
~~recycling and litter prevention under Chapter 1502. of the Revised~~ 55629
~~Code;~~ 55630

(B) ~~To the rate~~ Except as set forth in division ~~(B)~~(F) of 55631
~~that~~ section 5733.06 of the Revised Code, twenty-two-hundredths 55632

~~per cent upon that portion of the value so, in excess of fifty
thousand dollars, of the taxpayer's issued and outstanding shares
of stock as determined that is subject to that rate, an additional
twenty two hundredths per cent upon that value to provide funding
for the division recycling and litter prevention under Chapter
1502. under division (B) of section 5733.05 of the Revised Code;~~

~~(C) To the rate in division (C) of that section
Fourteen-hundredths of one mill times that portion of the value of
the taxpayer's issued and outstanding shares of stock as
determined under division (C) of section 5733.05 of the Revised
Code, an additional fourteen one hundredths mills times that value
to provide funding for the division of recycling and litter
prevention under Chapter 1502. of the Revised Code.~~

The additional tax charged any taxpayer or group of combined
taxpayers pursuant to this section for any tax year shall not
exceed five thousand dollars.

This section does not apply to any family farm corporation as
defined in section 4123.01 of the Revised Code.

The tax levied on corporations under this section does not
prohibit or otherwise limit the authority of municipal
corporations to impose an income tax on the income of such
corporations.

Sec. 5733.069. (A) As used in this section:

(1) "Average of the payroll factor and the property factor"
means one-half multiplied by the sum of the payroll factor and the
property factor.

(2) Subject to divisions (C) and (H) of this section, "export
sales" means sales used in determining the denominator of the
sales factor under division (B)(2)(c) of section 5733.05 of the
Revised Code, as long as the sales meet the requirements of

division (A)(2)(a) of this section and either or both of divisions 55663
(A)(2)(b) and (c) of this section. 55664

(a) The gross receipts with respect to the sales qualify as 55665
foreign trading gross receipts as defined under section 924 of the 55666
Internal Revenue Code and regulations prescribed thereunder, 55667
except not including foreign trading gross receipts defined under 55668
section 924(a)(5) of the Internal Revenue Code and regulations 55669
prescribed thereunder. In addition, for the purposes of division 55670
(A)(2)(a) of this section, section 924 of the Internal Revenue 55671
Code is considered to apply to any taxpayer, not just an FSC as 55672
that term is defined under section 922 of the Internal Revenue 55673
Code. 55674

(b) In the case of sales of tangible personal property, the 55675
taxpayer establishes by preponderance of the evidence that the 55676
property is not received by the purchaser within the United 55677
States. If the property is delivered by common carrier or by other 55678
means of transportation, the place at which the property is 55679
ultimately received after all transportation has been completed 55680
shall be considered as the place at which the property is received 55681
by the purchaser. Direct delivery in the United States, other than 55682
for purposes of transportation, to a person or firm designated by 55683
the purchaser constitutes delivery to the purchaser in the United 55684
States. Direct delivery outside the United States to a person or 55685
firm designated by the purchaser does not constitute delivery to 55686
the purchaser in the United States, regardless of where title 55687
passes or other condition of sale. 55688

In addition, the taxpayer also establishes by clear and 55689
convincing evidence one of the following: 55690

(i) With respect to sales of tangible personal property to a 55691
related member, within the twelve-month period subsequent to the 55692
delivery to the related member, the related member in turn sells 55693
the property, or leases it for a period of at least five years, 55694

and delivers the property in the same form or as a component part 55695
of other property to a purchaser or lessee who is not a related 55696
member. In addition, during the twenty-four-month period 55697
commencing with the date of such sale or lease by the related 55698
member, the purchaser or lessee or a related member of the 55699
purchaser or lessee does not receive, use, or consume the 55700
property, either in the same form or as a component part of other 55701
property, within the United States, and does not directly or 55702
indirectly sell or lease the property, either in the same form or 55703
as a component part of other property, for use or consumption in 55704
the United States. 55705

(ii) With respect to all other sales of tangible personal 55706
property, during the twenty-four-month period commencing with such 55707
sale, the purchaser or a related member of the purchaser does not 55708
receive, use, or consume the property, either in the same form or 55709
as a component part of other property, in the United States, and 55710
does not directly or indirectly sell the property, either in the 55711
same form or as a component part of other property, for use or 55712
consumption in the United States. 55713

(c) In the case of sales of services, the taxpayer 55714
establishes by preponderance of the evidence that the purchaser 55715
uses or consumes the services or the object of the services in a 55716
location other than the United States. If a purchaser will receive 55717
and use or consume the services or the object of the services both 55718
within and outside the United States, the sale is considered to be 55719
a sale of services or of the object of the services used or 55720
consumed outside the United States by the purchaser only to the 55721
extent of such proportionate use or consumption outside the United 55722
States. The taxpayer shall establish by preponderance of the 55723
evidence that the services or the object of the services was 55724
ultimately received and used or consumed outside the United 55725
States. Direct or indirect sales of services or the object of 55726

services to a related member do not meet the requirements of 55727
division (A)(2)(c) of this section unless the taxpayer establishes 55728
by preponderance of the evidence that within the twelve-month 55729
period subsequent to the sale to the related member, the related 55730
member in turn sold and delivered or rendered the services or the 55731
object of the services to a person who is not a related member and 55732
such person ultimately received and used or consumed the services 55733
or the object of the services outside the United States. In no 55734
event shall a sale of services qualify as an export sale if the 55735
taxpayer or the taxpayer's related member directly or indirectly 55736
acquired such services from a person who is not a United States 55737
person and if the taxpayer or the taxpayer's related member in 55738
turn directly or indirectly sold such services in substantially 55739
the same form. For purposes of this section, services are sold in 55740
substantially the same form where more than fifty per cent of the 55741
fair market value of such services sold is attributable to 55742
services directly or indirectly purchased by the taxpayer or by 55743
the taxpayer's related member from a person who is not a United 55744
States person. 55745

(3) "Incremental increase in export sales" means one-half the 55746
difference obtained by subtracting the amount of the taxpayer's 55747
export sales for the second preceding taxable year from the amount 55748
of the taxpayer's export sales for the taxable year. 55749

If the taxpayer's taxable year is a period of greater than or 55750
less than three hundred sixty-five days, or three hundred 55751
sixty-six days for a taxable year that includes February 55752
twenty-nine, the amount of the export sales for that taxable year 55753
shall be adjusted and restated to an annualized amount. 55754

(4) Subject to divisions (C), (F)(1), (H), and (I) of this 55755
section, "Ohio payroll increase factor" means twelve and one-half 55756
multiplied by the difference obtained by subtracting two 55757
one-hundredths from the largest of the following quotients: 55758

(a) The numerator of the payroll factor for the taxable year 55759
minus the numerator of the payroll factor for the immediately 55760
preceding taxable year, divided by the numerator of the payroll 55761
factor for the immediately preceding taxable year; 55762

(b) The numerator of the payroll factor for the taxable year 55763
minus the numerator of the payroll factor for the second preceding 55764
taxable year, divided by the numerator of the payroll factor for 55765
the second preceding taxable year; 55766

(c) The numerator of the payroll factor for the taxable year 55767
minus the numerator of the payroll factor for the third preceding 55768
taxable year, divided by the numerator of the payroll factor for 55769
the third preceding taxable year. 55770

If the numerator of the payroll factor for a taxable year 55771
represents payroll for a period of greater than or less than three 55772
hundred sixty-five days, or three hundred sixty-six days for a 55773
taxable year that includes February twenty-nine, for purposes of 55774
this section the numerator for that taxable year shall be adjusted 55775
and restated to an annualized amount. If neither the taxpayer nor 55776
its related members were subject to the tax imposed by section 55777
5733.06 of the Revised Code for any of the three immediately 55778
preceding tax years, the numerator of the payroll factor for any 55779
such year shall be considered to be one dollar. 55780

In no event shall the Ohio payroll increase factor be greater 55781
than one or less than zero. 55782

(5) Subject to divisions (C), (F)(2), and (H) of this 55783
section, "Ohio property increase factor" means ten multiplied by 55784
the largest of the following quotients: 55785

(a) The numerator of the property factor for the taxable year 55786
minus the numerator of the property factor for the immediately 55787
preceding taxable year, divided by the numerator of the property 55788
factor for the immediately preceding taxable year; 55789

(b) The numerator of the property factor for the taxable year 55790
minus the numerator of the property factor for the second 55791
preceding taxable year, divided by the numerator of the property 55792
factor for the second preceding taxable year; 55793

(c) The numerator of the property factor for the taxable year 55794
minus the numerator of the property factor for the third preceding 55795
taxable year, divided by the numerator of the property factor for 55796
the third preceding taxable year. 55797

If neither the taxpayer nor its related members were subject 55798
to the tax imposed by section 5733.06 of the Revised Code for any 55799
of the three immediately preceding tax years, the numerator of the 55800
property factor for any such year shall be considered to be one 55801
dollar. 55802

In no event shall the Ohio property increase factor be 55803
greater than one or less than zero. 55804

(6) Subject to divisions (H) and (I) of this section, 55805
"payroll factor" has the same meaning as in division (B)(2)(b) of 55806
section 5733.05 of the Revised Code with any adjustments, 55807
exclusions, or alterations made in accordance with division 55808
(B)(2)(d) of that section. 55809

(7) "Pre-tax profit from the incremental increase in export 55810
sales" means fifteen per cent of the incremental increase in 55811
export sales, except that the taxpayer may establish by 55812
preponderance of the evidence that the pre-tax profit margin from 55813
such sales is an amount exceeding fifteen per cent but not 55814
exceeding fifty per cent. For purposes of this section, the 55815
pre-tax profit margin shall be determined on a product line by 55816
product line basis, and equals the quotient of the taxpayer's 55817
taxable income with respect to the product line before operating 55818
loss deduction and special deductions, as required to be reported 55819
for the taxable year under the Internal Revenue Code, divided by 55820

the taxpayer's sales for the product line less sales returns, 55821
allowances, and discounts. 55822

Nothing in division (A)(7) of this section shall be used or 55823
construed to support a request under division (B)(2)(d) of section 55824
5733.05 of the Revised Code. 55825

(8) Subject to division (H) of this section, "property 55826
factor" has the same meaning as in division (B)(2)(a) of section 55827
5733.05 of the Revised Code with any adjustments, exclusions, or 55828
alterations made in accordance with division (B)(2)(d) of that 55829
section. 55830

(9) "Related member" has the same meaning as ~~under division~~ 55831
~~(A)(6) of~~ in section 5733.042 of the Revised Code without regard 55832
to division (B) of that section. 55833

(10) "Tentative credit" means the credit under division (B) 55834
of this section without regard to the limitations set forth in 55835
division (D) of this section. 55836

(11) "United States" means the United States and its 55837
territories and possessions. 55838

(12) "United States person" has the same meaning as under 55839
section 7701(A)(30) of the Internal Revenue Code. 55840

(B) A nonrefundable credit is allowed against the tax imposed 55841
by section 5733.06 of the Revised Code. The credit shall be 55842
claimed in the order required under section 5733.98 of the Revised 55843
Code. Subject to divisions (C), (D), and (G) of this section, the 55844
credit equals the sum of the following: 55845

(1) For tax years 1993 to 2000, ten per cent of the product 55846
obtained by multiplying all of the following together: 55847

(a) The pre-tax profit from the incremental increase in 55848
export sales for the taxable year; 55849

(b) The average of the property factor and the payroll factor 55850

for the taxable year; 55851

(c) The greater of the Ohio payroll increase factor or the 55852
Ohio property increase factor. 55853

(2) For tax years 1994 to 2005, the sum of any amounts 55854
carried forward from tax years 1993 to 2000 in accordance with 55855
division (E) of this section. 55856

(C)(1) In the case of a taxpayer having a related member or a 55857
group of taxpayers having a related member, the credit available 55858
under this section to the taxpayer or group of taxpayers shall be 55859
computed as if the taxpayer or all taxpayers of the group and all 55860
such related members were a consolidated, single taxpayer. The 55861
credit shall be allocated to such taxpayer or to such group of 55862
taxpayers in any amount elected for the tax year by the taxpayer 55863
or group. Such election shall be revocable and amendable during 55864
the period described in division (B)(1) of section 5733.12 of the 55865
Revised Code. Nothing in this section shall be construed to treat 55866
as an export sale a sale by a related member who is not a United 55867
States person if such sale would not qualify as an export sale 55868
without regard to the consolidation requirement set forth in this 55869
section. 55870

(2) For purposes of this section, a taxpayer's or related 55871
member's export sales and the numerators and denominators of the 55872
taxpayer's or related member's payroll and property factors shall 55873
include the taxpayer's or related member's proportionate shares of 55874
the export sales and numerators and denominators of the payroll 55875
and property factors, respectively, for all pass-through entities. 55876
For purposes of applying division (C)(2) of this section, the tax 55877
commissioner shall be guided by the concepts set forth in section 55878
41(f)(2) of the Internal Revenue Code and regulations prescribed 55879
thereunder. Nothing in this section shall be construed to limit or 55880
disallow pass-through treatment of a pass-through entity's income, 55881
deductions, credits, or other amounts necessary to compute the tax 55882

imposed by section 5733.06 of the Revised Code and the credits 55883
allowed by this chapter. 55884

(D) In no circumstance shall the credit provided by this 55885
section be less than zero. 55886

If the tentative credit for a tax year for a taxpayer and any 55887
related members is greater than two hundred fifty thousand dollars 55888
or the aggregate tax due for the taxpayer and any related members 55889
after taking into account any other nonrefundable credits that 55890
precede the credit under this section in the order required under 55891
section 5733.98 of the Revised Code, then the credit allowed for 55892
the tax year for the taxpayer and any related members shall not 55893
exceed the lesser of two hundred fifty thousand dollars or the 55894
aggregate tax due for the taxpayer and any related members after 55895
taking into account any other nonrefundable credits that precede 55896
the credit under this section in that order. 55897

(E)(1) Pursuant to division (B)(2) of this section, the 55898
greater of the amount described in division (E)(1)(a) or the 55899
amount described in division (E)(1)(b) of this section shall be 55900
allowed as a nonrefundable credit in each ensuing tax year: 55901

(a) The excess, if any, of the tentative credit for the tax 55902
year over two hundred fifty thousand dollars; 55903

(b) The excess, if any, of the tentative credit for the tax 55904
year over the aggregate tax due for the tax year for the taxpayer 55905
and any related members, after taking into account any other 55906
nonrefundable credits for the tax year that precede the credit 55907
under this section in the order required under section 5733.98 of 55908
the Revised Code. 55909

(2) Any such amount allowed as a credit in an ensuing tax 55910
year shall be deducted from the balance carried forward to the 55911
next ensuing tax year. Such credit shall be taken into account 55912
prior to the allowance of any credit for such tax year under 55913

division (B)(1) of this section. In no event shall any amount or 55914
any portion of any amount described in division (E)(1)(a) or (b) 55915
of this section be allowed in tax year 2006 or any subsequent tax 55916
year. 55917

(F)(1) With respect to the computation of the Ohio payroll 55918
increase factor, divisions (A)(4)(b) and (c) of this section shall 55919
not apply to tax years 1993 and 1994, and division (A)(4)(c) of 55920
this section shall not apply to tax year 1995. 55921

(2) With respect to the computation of the Ohio property 55922
increase factor, divisions (A)(5)(b) and (c) of this section shall 55923
not apply to tax years 1993 and 1994, and division (A)(5)(c) of 55924
this section shall not apply to tax year 1995. 55925

(G) The aggregate credit allowed to the taxpayer and any 55926
related members for tax years 1993 to 2005 shall not exceed three 55927
million two hundred fifty thousand dollars. 55928

(H)(1) If a taxpayer or a taxpayer's related member acquires 55929
the major portion of a trade or business of another person or the 55930
major portion of a separate unit of a trade or business of another 55931
person, then for purposes of applying this section for any tax 55932
year subsequent to the end of the taxable year in which the 55933
acquisition occurred, the amount of the taxpayer's export sales, 55934
payroll, subject to division (I) of this section, and property for 55935
periods before the acquisition shall be increased by so much of 55936
such amounts paid or incurred by the previous owner of the 55937
acquired trade, business, or separate unit as is attributable to 55938
the portion of such trade, business, or separate unit acquired by 55939
the taxpayer or related member. 55940

(2) If a taxpayer or a taxpayer's related member disposes of 55941
a major portion of a trade or business or the major portion of a 55942
separate unit of a trade or business in a transaction to which 55943
division (H)(1) of this section applies, and if the taxpayer or 55944

the related member furnished the acquiring person such information 55945
as is necessary for the application of division (H)(1) of this 55946
section, then for purposes of applying this section to any tax 55947
year subsequent to the end of the taxable year in which the 55948
disposition occurred, the amount of the taxpayer's export sales, 55949
payroll, subject to division (I) of this section, and property for 55950
periods before the disposition shall be decreased by so much of 55951
such amounts as is attributable to the portion of such trade, 55952
business, or separate unit disposed of by the taxpayer or related 55953
member. 55954

(3) For purposes of applying this division, the tax 55955
commissioner shall be guided by the concepts set forth in section 55956
41(f)(3) of the Internal Revenue Code and regulations prescribed 55957
thereunder. 55958

(I) For purposes of this section, payroll and compensation do 55959
not include amounts in excess of two hundred thousand dollars 55960
directly or indirectly paid or accrued during the taxable year to 55961
an employee. For purposes of applying this division, the aggregate 55962
payroll and compensation directly or indirectly paid or accrued by 55963
the taxpayer and by the taxpayer's related members, if any, to an 55964
employee and to the employee's children, grandchildren, parents, 55965
and spouse, other than a spouse who is legally separated from the 55966
employee, shall be considered to be paid to the employee. 55967

(J) With respect to allowing the credit provided by this 55968
section, the tax commissioner shall be guided by the doctrines of 55969
"economic reality," "sham transaction," "step transaction," and 55970
"substance over form." The taxpayer shall bear the burden of 55971
establishing by preponderance of the evidence that any transaction 55972
giving rise to a claimed credit did not have as a principal 55973
purpose the avoidance of any portion of the tax imposed by section 55974
5733.06 of the Revised Code. 55975

Nothing in this section shall be construed to limit solely to 55976

this section the application of the doctrines listed in this 55977
division. 55978

Sec. 5733.09. (A) ~~An~~ (1) Except as provided in divisions 55979
(A)(2) to (4) of this section, an incorporated company, whether 55980
foreign or domestic, owning and operating a public utility in this 55981
state, and required by law to file reports with the tax 55982
commissioner and to pay an excise tax upon its gross receipts, and 55983
insurance, fraternal, beneficial, bond investment, and other 55984
corporations required by law to file annual reports with the 55985
superintendent of insurance ~~and dealers in intangibles, the shares~~ 55986
~~of which are, or the capital or ownership in capital employed by~~ 55987
~~such dealer is, subject to the taxes imposed by section 5707.03 of~~ 55988
~~the Revised Code, shall not be subject to this chapter, except for~~ 55989
sections 5733.031, 5733.042, 5733.05, 5733.052, 5733.053, 55990
5733.069, 5733.0611, 5733.40, 5733.41, and sections 5747.40 to 55991
5747.453 of the Revised Code. However, for reports required to be 55992
filed under section 5725.14 of the Revised Code in 2003 and 55993
thereafter, nothing in this section shall be construed to exempt 55994
the property of any dealer in intangibles under section 5725.13 of 55995
the Revised Code from the tax imposed under section 5707.03 of the 55996
Revised Code. ~~An~~ 55997

(2) An electric company subject to the filing requirements of 55998
section 5727.08 of the Revised Code or otherwise having nexus with 55999
or in this state under the Constitution of the United States, or 56000
any other corporation having any gross receipts directly 56001
attributable to providing public utility service as an electric 56002
company or having any property directly attributable to providing 56003
public utility service as an electric company, is subject to this 56004
chapter. 56005

(3) A telephone company that no longer pays an excise tax 56006
under section 5727.30 of the Revised Code on its gross receipts 56007

billed after June 30, 2004, is first subject to taxation under 56008
this chapter for tax year 2005. For that tax year, a telephone 56009
company with a taxable year beginning in 2003 and ending in 2004 56010
shall compute the tax imposed under this chapter, or shall compute 56011
the net operating loss carry forward for tax year 2005, by 56012
multiplying the tax owed under this chapter, net of all 56013
nonrefundable credits, or the loss for the taxable year, by fifty 56014
per cent. 56015

(4) A water transportation company that no longer pays an 56016
excise tax under section 5727.30 of the Revised Code on its gross 56017
receipts after June 30, 2003, is first subject to taxation under 56018
this chapter for tax year 2004. For that tax year, a water 56019
transportation company shall compute the tax imposed under this 56020
chapter, or shall compute the net operating loss carry forward for 56021
tax year 2004, by multiplying the tax owed under this chapter, net 56022
of all nonrefundable credits, or the loss for the taxable year, by 56023
fifty per cent. 56024

(B) A corporation that has made an election under subchapter 56025
S, chapter one, subtitle A, of the Internal Revenue Code for its 56026
taxable year under such code is exempt from the tax imposed by 56027
section 5733.06 of the Revised Code that is based on that taxable 56028
year. 56029

A corporation that makes such an election shall file a notice 56030
of such election with the tax commissioner between the first day 56031
of January and the thirty-first day of March of each tax year that 56032
the election is in effect. 56033

(C) An entity defined to be a "real estate investment trust" 56034
by section 856 of the Internal Revenue Code, a "regulated 56035
investment company" by section 851 of the Internal Revenue Code, 56036
or a "real estate mortgage investment conduit" by section 860D of 56037
the Internal Revenue Code, is exempt from taxation for a tax year 56038
as a corporation under this chapter ~~and is exempt from taxation~~ 56039

~~for a return year as a dealer in intangibles under Chapter 5725.~~ 56040
~~of the Revised Code~~ if it provides the report required by this 56041
division. By the last day of March of the tax or return year the 56042
entity shall submit to the tax commissioner the name of the entity 56043
with a list of the names, addresses, and social security or 56044
federal identification numbers of all investors, shareholders, and 56045
other similar investors who owned any interest or invested in the 56046
entity during the preceding calendar year. The commissioner may 56047
extend the date by which the report must be submitted for 56048
reasonable cause shown by the entity. The commissioner may 56049
prescribe the form of the report required for exemption under this 56050
division. 56051

(D)(1) As used in this division: 56052

(a) "Commercial printer" means a person primarily engaged in 56053
the business of commercial printing. However, "commercial printer" 56054
does not include a person primarily engaged in the business of 56055
providing duplicating services using photocopy machines or other 56056
xerographic processes. 56057

(b) "Commercial printing" means printing by one or more 56058
common processes such as letterpress, lithography, gravure, 56059
screen, or digital imaging, and includes related activities such 56060
as binding, platemaking, prepress operation, cartographic 56061
composition, and typesetting. 56062

(c) "Contract for printing" means an oral or written 56063
agreement for the purchase of printed materials produced by a 56064
commercial printer. 56065

(d) "Intangible property located at the premises of a 56066
commercial printer" means intangible property of any kind owned or 56067
licensed by a customer of the commercial printer and furnished to 56068
the commercial printer for use in commercial printing. 56069

(e) "Printed material" means any tangible personal property 56070

produced or processed by a commercial printer pursuant to a 56071
contract for printing. 56072

(f) "Related member" has the same meaning as in ~~division~~ 56073
~~(A)(6)~~ of section 5733.042 of the Revised Code without regard to 56074
division (B) of that section. 56075

(2) Except as provided in divisions (D)(3) and (4) of this 56076
section, a corporation not otherwise subject to the tax imposed by 56077
section 5733.06 of the Revised Code for a tax year does not become 56078
subject to that tax for the tax year solely by reason of any one 56079
or more of the following occurring in this state during the 56080
taxable year that ends immediately prior to the tax year: 56081

(a) Ownership by the corporation or a related member of the 56082
corporation of tangible personal property or intangible property 56083
located during all or any portion of the taxable year or on the 56084
first day of the tax year at the premises of a commercial printer 56085
with which the corporation or the corporation's related member has 56086
a contract for printing with respect to such property or the 56087
premises of a commercial printer's related member with which the 56088
corporation or the corporation's related member has a contract for 56089
printing with respect to such property; 56090

(b) Sales by the corporation or a related member of the 56091
corporation of property produced at and shipped or distributed 56092
from the premises of a commercial printer with which the 56093
corporation or the corporation's related member has a contract for 56094
printing with respect to such property or the premises of a 56095
commercial printer's related member with which the corporation or 56096
the corporation's related member has a contract for printing with 56097
respect to such property; 56098

(c) Activities of employees, officers, agents, or contractors 56099
of the corporation or a related member of the corporation on the 56100
premises of a commercial printer with which the corporation or the 56101

corporation's related member has a contract for printing or the 56102
premises of a commercial printer's related member with which the 56103
corporation or the corporation's related member has a contract for 56104
printing, where the activities are directly and solely related to 56105
quality control, distribution, or printing services, or any 56106
combination thereof, performed by or at the direction of the 56107
commercial printer or the commercial printer's related member. 56108

(3) The exemption under this division does not apply for a 56109
taxable year to any corporation having on the first day of January 56110
of the tax year or at any time during the taxable year ending 56111
immediately preceding the first day of January of the tax year a 56112
related member which, on the first day of January of the tax year 56113
or during any portion of such taxable year of the corporation, has 56114
nexus in or with this state under the Constitution of the United 56115
States or holds a certificate of compliance with the laws of this 56116
state authorizing it to do business in this state. 56117

(4) With respect to allowing the exemption under this 56118
division, the tax commissioner shall be guided by the doctrines of 56119
"economic reality," "sham transaction," "step transaction," and 56120
"substance over form." A corporation shall bear the burden of 56121
establishing by a preponderance of the evidence that any 56122
transaction giving rise to an exemption claimed under this 56123
division did not have as a principal purpose the avoidance of any 56124
portion of the tax imposed by section 5733.06 of the Revised Code. 56125

Application of the doctrines listed in division (D)(4) of 56126
this section is not limited to this division. 56127

Sec. 5733.18. Annually, on the day fixed for the payment of 56128
any excise or franchise tax required to be paid by law, such tax, 56129
together with any penalties subsequently accruing thereon, shall 56130
become a lien on all property in this state of a corporation, 56131
whether such property is employed by the corporation in the 56132

prosecution of its business or is in the hands of an assignee, 56133
trustee, or receiver for the benefit of the creditors and 56134
stockholders. Such lien shall continue until such taxes, together 56135
with any penalties subsequently accruing, are paid. 56136

Upon failure of such corporation to pay such tax on the day 56137
fixed for payment, the tax commissioner may file, for which filing 56138
no fee shall be charged, in the office of the county recorder in 56139
each county in this state in which such corporation owns or has a 56140
beneficial interest in real estate, notice of such lien containing 56141
a brief description of such real estate. Such lien shall not be 56142
valid as against any mortgagee, purchaser, or judgment creditor 56143
whose rights have attached prior to the time such notice is so 56144
filed in the county in which the real estate which is the subject 56145
of such mortgage, purchase, or judgment lien is located. Such 56146
notice shall be recorded in a book kept by the recorder, called 56147
the corporation franchise lien record, and indexed under the name 56148
of the corporation charged with such tax. When such tax, together 56149
with any penalties subsequently accruing thereon, has been paid, 56150
the tax commissioner shall furnish to the corporation an 56151
acknowledgment of such payment which the corporation may record 56152
with the recorder of each county in which notice of such lien has 56153
been filed, for which recording the recorder shall charge and 56154
receive a base fee of two dollars for services and a housing trust 56155
fund fee of two dollars pursuant to section 317.36 of the Revised 56156
Code. 56157

Sec. 5733.22. (A)(1) Any corporation whose articles of 56158
incorporation or license certificate to do or transact business in 56159
this state has been canceled by the secretary of state pursuant to 56160
section 5733.20 of the Revised Code for failure to make any report 56161
or return or to pay any tax or fee, shall be reinstated and again 56162
entitled to exercise its rights, privileges, and franchises in 56163
this state, and the secretary of state shall cancel the entry of 56164

cancellation to exercise its rights, privileges, and franchises 56165
upon compliance with all of the following: 56166

(a) Payment to the secretary of state of any additional fees 56167
and penalties required to be paid to the secretary of state; 56168

(b) Filing with the secretary of state a certificate from the 56169
tax commissioner that it has complied with all the requirements of 56170
law as to franchise or excise tax reports and paid all franchise 56171
or excise taxes, fees, or penalties due thereon for every year of 56172
its delinquency; 56173

(c) Payment to the secretary of state of an additional fee of 56174
ten dollars. 56175

(2) The applicant for reinstatement shall be required by the 56176
secretary of state, as a condition prerequisite to such 56177
reinstatement, to amend its articles by changing its name if all 56178
of the following apply: 56179

(a) The reinstatement is not made within one year from the 56180
date of the cancellation of its articles of incorporation or date 56181
of the cancellation of its license to do business; 56182

(b) It appears that the applicant's articles of incorporation 56183
or license certificate has been issued to another entity and is 56184
not distinguishable upon the record from the name of the 56185
applicant; 56186

(c) It appears that the articles of organization of a limited 56187
liability company, registration of a foreign limited liability 56188
company, certificate of limited partnership, registration of a 56189
foreign limited partnership, registration of a domestic or foreign 56190
limited liability partnership, or registration of a trade name has 56191
been issued to another entity and is not distinguishable upon the 56192
record from the name of the applicant. A certificate of 56193
reinstatement may be filed in the recorder's office of any county 56194
in the state, for which the recorder shall charge and collect a 56195

base fee of three dollars for services and a housing trust fund 56196
fee of three dollars pursuant to section 317.36 of the Revised 56197
Code. 56198

Any officer, shareholder, creditor, or receiver of any such 56199
corporation may at any time take all steps required by this 56200
section to effect such reinstatement. 56201

(B) The rights, privileges, and franchises of a corporation 56202
whose articles of incorporation have been reinstated in accordance 56203
with this section, are subject to section 1701.922 of the Revised 56204
Code. 56205

(C) Notwithstanding a violation of section 5733.21 of the 56206
Revised Code, upon reinstatement of a corporation's articles of 56207
incorporation in accordance with this section, neither section 56208
5733.20 nor section 5733.21 of the Revised Code shall be applied 56209
to invalidate the exercise or attempt to exercise any right, 56210
privilege, or franchise on behalf of the corporation by an 56211
officer, agent, or employee of the corporation after cancellation 56212
and prior to the reinstatement of the articles, if the conditions 56213
set forth in divisions (B)(1)(a) and (b) of section 1701.922 of 56214
the Revised Code are met. 56215

Sec. 5733.33. (A) As used in this section: 56216

(1) "Manufacturing machinery and equipment" means engines and 56217
machinery, and tools and implements, of every kind used, ~~or~~ 56218
~~designed to be used,~~ in refining and or manufacturing and 56219
capitalized by a manufacturer entitled to the depreciation 56220
deduction for the property for federal income tax purposes. 56221

"Manufacturing machinery and equipment" does not include ~~property~~ 56222
~~acquired after December 31, 1999, that is used~~ any of the 56223
following: 56224

(a) ~~For~~ Property used for the transmission and or 56225

distribution of electricity; 56226

(b) ~~For~~ Property used for the generation of electricity, if 56227
fifty per cent or more of ~~the~~ that electricity ~~that the property~~ 56228
~~generates~~ is consumed, during the one-hundred-twenty-month period 56229
commencing with the date the property is placed in service, by 56230
persons that are not related members to the person who generates 56231
the electricity; 56232

(c) Property used to provide a service, including, but not 56233
limited to, health care diagnostic equipment, veterinary 56234
diagnostic equipment, and equipment for providing 56235
telecommunications service or mobile telecommunications service as 56236
defined in section 5739.01 of the Revised Code; 56237

(d) Property exempted from taxation under section 3706.041 or 56238
5709.25 of the Revised Code; 56239

(e) Property owned by a corporation claiming exemption from 56240
taxes imposed by this chapter under division (A) or (C) of section 56241
5733.09 of the Revised Code. 56242

(2) "New manufacturing machinery and equipment" means 56243
manufacturing machinery and equipment owned by, and the original 56244
use in this state of which commences with, either the taxpayer or 56245
~~with a partnership of a pass-through entity in~~ which the taxpayer 56246
is a partner. ~~"New manufacturing machinery and equipment" does not~~ 56247
~~include property acquired after December 31, 1999, that is used+~~ 56248

~~(a) For the transmission and distribution of electricity;~~ 56249

~~(b) For the generation of electricity, if fifty per cent or~~ 56250
~~more of the electricity that the property generates is consumed,~~ 56251
~~during the one hundred twenty month period commencing with the~~ 56252
~~date the property is placed in service, by persons that are not~~ 56253
~~related members to the person who generates the electricity~~ an 56254
equity investor. 56255

(3)(a) "Purchase" has the same meaning as in section 179(d)(2) of the Internal Revenue Code and includes a manufacturer's acquisition of property by lease if the lessee-manufacturer has capitalized the property and is entitled to the depreciation deduction for the property for federal income tax purposes. For purposes of this section, if the lessee-manufacturer has capitalized the property and is entitled to the depreciation deduction for the property for federal income tax purposes, and the lessee-manufacturer takes possession of the property not later than ninety days after the lease agreement becomes effective, then the lessee-manufacturer is the purchaser and owner of the property and the lessor is not deemed to have used the property in this state by acquiring and holding the property solely for the purposes of such lease; otherwise, the lessor is considered to be the purchaser and owner of the property and is not entitled to the credit provided by this section.

(b) For purposes of this section, any property that is not manufactured or assembled primarily by the taxpayer is considered purchased at the time the agreement to acquire the property becomes binding. Any property that is manufactured or assembled primarily by the taxpayer is considered purchased at the time the taxpayer places the property in service in the county for which the taxpayer will calculate the county excess amount.

~~(c) Notwithstanding section 179(d) of the Internal Revenue Code,~~ A taxpayer's direct or indirect acquisition of new manufacturing machinery and equipment is not purchased on or after July 1, 1995, if the taxpayer, or a person whose relationship to the taxpayer is described in subparagraphs (A), (B), or (C) of section 179(d)(2) of the Internal Revenue Code, had directly or indirectly entered into a binding agreement to acquire the property at any time prior to July 1, 1995.

(4) "Qualifying period" means the period that begins July 1,

1995, and ends December 31, 2005.	56288
(5) "County average new manufacturing machinery and equipment investment" means either of the following:	56289
	56290
(a) The average annual cost of new manufacturing machinery and equipment purchased for use in the county during baseline years, in the case of a taxpayer that was in existence for more than one year during baseline years.	56291
	56292
	56293
	56294
(b) Zero, in the case of a taxpayer that was not in existence for more than one year during baseline years.	56295
	56296
(6) "Partnership" includes a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation <u>"Manufacturer" has the same meaning as in section 5711.16 of the Revised Code.</u>	56297
	56298
	56299
	56300
	56301
	56302
(7) "Partner" includes a member of a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation <u>"Equity investor in a pass-through entity" means an investor having such an equity interest in a pass-through entity that the depreciation deduction on the pass-through entity's new manufacturing machinery and equipment is passed through to the investor for federal income tax purposes.</u>	56303
	56304
	56305
	56306
	56307
	56308
	56309
	56310
	56311
(8) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county that meets two of the following criteria of economic distress, or a municipal corporation the majority of the population of which is situated in such a county:	56312
	56313
	56314
	56315
	56316
(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at	56317
	56318

least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period;

(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau;

(c)(i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line;

(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(9) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(10) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts.

(11) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(12) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(13) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer, that will adversely affect the county's or municipal corporation's economy. In order

to be designated as a situational distress area for a period not 56349
to exceed thirty-six months, the county or municipal corporation 56350
may petition the director of development. The petition shall 56351
include written documentation that demonstrates all of the 56352
following adverse effects on the local economy: 56353

(a) The number of jobs lost by the closing or downsizing; 56354

(b) The impact that the job loss has on the county's or 56355
municipal corporation's unemployment rate as measured by the state 56356
director of job and family services; 56357

(c) The annual payroll associated with the job loss; 56358

(d) The amount of state and local taxes associated with the 56359
job loss; 56360

(e) The impact that the closing or downsizing has on the 56361
suppliers located in the county or municipal corporation. 56362

(14) "Cost" has the same ~~meaning and~~ limitation as in section 56363
179(d)(3) of the Internal Revenue Code. 56364

(15) "Baseline years" means: 56365

(a) Calendar years 1992, 1993, and 1994, with regard to a 56366
credit claimed for the purchase during calendar year 1995, 1996, 56367
1997, or 1998 of new manufacturing machinery and equipment; 56368

(b) Calendar years 1993, 1994, and 1995, with regard to a 56369
credit claimed for the purchase during calendar year 1999 of new 56370
manufacturing machinery and equipment; 56371

(c) Calendar years 1994, 1995, and 1996, with regard to a 56372
credit claimed for the purchase during calendar year 2000 of new 56373
manufacturing machinery and equipment; 56374

(d) Calendar years 1995, 1996, and 1997, with regard to a 56375
credit claimed for the purchase during calendar year 2001 of new 56376
manufacturing machinery and equipment; 56377

(e) Calendar years 1996, 1997, and 1998, with regard to a credit claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment;	56378 56379 56380
(f) Calendar years 1997, 1998, and 1999, with regard to a credit claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment;	56381 56382 56383
(g) Calendar years 1998, 1999, and 2000, with regard to a credit claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;	56384 56385 56386
(h) Calendar years 1999, 2000, and 2001, with regard to a credit claimed for the purchase during calendar year 2005 of new manufacturing machinery and equipment;	56387 56388 56389
(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	56390 56391
(B)(1) Subject to division (I) of this section, a nonrefundable credit is allowed against the tax imposed by section 5733.06 of the Revised Code for a taxpayer that purchases new manufacturing machinery and equipment during the qualifying period, provided that the new manufacturing machinery and equipment are <u>is</u> installed in this state no later than December 31, 2006.	56392 56393 56394 56395 56396 56397 56398
(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a credit may be claimed under this section in excess of one million dollars only if the cost of all manufacturing machinery and equipment owned in this state by the taxpayer claiming the credit on the last day of the calendar year exceeds the cost of all manufacturing machinery and equipment owned in this state by the taxpayer on the first day of that calendar year.	56399 56400 56401 56402 56403 56404 56405
As used in division (B)(2)(a) of this section, "calendar year" means the calendar year in which the machinery and equipment	56406 56407

for which the credit is claimed was purchased. 56408

(b) Division (B)(2)(a) of this section does not apply if the 56409
taxpayer claiming the credit applies for and is issued a waiver of 56410
the requirement of that division. A taxpayer may apply to the 56411
director of development for such a waiver in the manner prescribed 56412
by the director, and the director may issue such a waiver if the 56413
director determines that granting the credit is necessary to 56414
increase or retain employees in this state, and that the credit 56415
has not caused relocation of manufacturing machinery and equipment 56416
among counties within this state for the primary purpose of 56417
qualifying for the credit. 56418

(C)(1) Except as otherwise provided in division (C)(2) and 56419
division (I) of this section, the credit amount is equal to seven 56420
and one-half per cent of the excess of the cost of the new 56421
manufacturing machinery and equipment purchased during the 56422
calendar year for use in a county over the county average new 56423
manufacturing machinery and equipment investment for that county. 56424

(2) Subject to division (I) of this section, as used in 56425
division (C)(2) of this section "county excess" means the 56426
taxpayer's excess cost for a county as computed under division 56427
(C)(1) of this section. 56428

Subject to division (I) of this section, a taxpayer with a 56429
county excess, whose purchases included purchases for use in any 56430
eligible area in the county, the credit amount is equal to 56431
thirteen and one-half per cent of the cost of the new 56432
manufacturing machinery and equipment purchased during the 56433
calendar year for use in the eligible areas in the county, 56434
provided that the cost subject to the thirteen and one-half per 56435
cent rate shall not exceed the county excess. If the county excess 56436
is greater than the cost of the new manufacturing machinery and 56437
equipment purchased during the calendar year for use in eligible 56438
areas in the county, the credit amount also shall include an 56439

amount equal to seven and one-half per cent of the amount of the 56440
difference. 56441

(3) If a taxpayer is allowed a credit for purchases of new 56442
manufacturing machinery and equipment in more than one county or 56443
eligible area, it shall aggregate the amount of those credits each 56444
year. 56445

(4) The taxpayer shall claim one-seventh of the credit amount 56446
for the tax year immediately following the calendar year in which 56447
the new manufacturing machinery and equipment is purchased for use 56448
in the county by the taxpayer or ~~partnership~~ pass-through entity. 56449
One-seventh of the taxpayer credit amount is allowed for each of 56450
the six ensuing tax years. Except for carried-forward amounts, the 56451
taxpayer is not allowed any credit amount remaining if the new 56452
manufacturing machinery and equipment is sold by the taxpayer or 56453
~~partnership~~ pass-through entity or is transferred by the taxpayer 56454
or ~~partnership~~ pass-through entity out of the county before the 56455
end of the seven-year period unless, at the time of the sale or 56456
transfer, the new manufacturing machinery and equipment has been 56457
fully depreciated for federal income tax purposes. 56458

(5)(a) A taxpayer that acquires manufacturing machinery and 56459
equipment as a result of a merger with the taxpayer with whom 56460
commenced the original use in this state of the manufacturing 56461
machinery and equipment, or with a taxpayer that was a ~~partner~~ an 56462
equity investor in a ~~partnership with whom~~ pass-through entity 56463
with which commenced the original use in this state of the 56464
manufacturing machinery and equipment, is entitled to any 56465
remaining or carried-forward credit amounts to which the taxpayer 56466
was entitled. 56467

(b) A taxpayer that enters into an agreement under division 56468
(C)(3) of section 5709.62 of the Revised Code and that acquires 56469
manufacturing machinery or equipment as a result of purchasing a 56470
large manufacturing facility, as defined in section 5709.61 of the 56471

Revised Code, from another taxpayer with whom commenced the 56472
original use in this state of the manufacturing machinery or 56473
equipment, and that operates the large manufacturing facility so 56474
purchased, is entitled to any remaining or carried-forward credit 56475
amounts to which the other taxpayer who sold the facility would 56476
have been entitled under this section had the other taxpayer not 56477
sold the manufacturing facility or equipment. 56478

(c) New manufacturing machinery and equipment is not 56479
considered sold if a pass-through entity transfers to another 56480
pass-through entity substantially all of its assets as part of a 56481
plan of reorganization under which substantially all gain and loss 56482
is not recognized by the pass-through entity that is transferring 56483
the new manufacturing machinery and equipment to the transferee 56484
and under which the transferee's basis in the new manufacturing 56485
machinery and equipment is determined, in whole or in part, by 56486
reference to the basis of the pass-through entity which 56487
transferred the new manufacturing machinery and equipment to the 56488
transferee. 56489

(d) Division (C)(5) of this section shall apply only if the 56490
acquiring taxpayer or transferee does not sell the new 56491
manufacturing machinery and equipment or transfer the new 56492
manufacturing machinery and equipment out of the county before the 56493
end of the seven-year period to which division (C)(4) of this 56494
section refers. 56495

(e) Division (C)(5)(b) of this section applies only to the 56496
extent that the taxpayer that sold the manufacturing machinery or 56497
equipment, upon request, timely provides to the tax commissioner 56498
any information that the tax commissioner considers to be 56499
necessary to ascertain any remaining or carried-forward amounts to 56500
which the taxpayer that sold the facility would have been entitled 56501
under this section had the taxpayer not sold the manufacturing 56502
machinery or equipment. Nothing in division (C)(5)(b) or (e) of 56503

this section shall be construed to allow a taxpayer to claim any 56504
credit amount with respect to the acquired manufacturing machinery 56505
or equipment that is greater than the amount that would have been 56506
available to the other taxpayer that sold the manufacturing 56507
machinery or equipment had the other taxpayer not sold the 56508
manufacturing machinery or equipment. 56509

(D) The taxpayer shall claim the credit in the order required 56510
under section 5733.98 of the Revised Code. Each year, any credit 56511
amount in excess of the tax due under section 5733.06 of the 56512
Revised Code after allowing for any other credits that precede the 56513
credit under this section in that order may be carried forward for 56514
three tax years. 56515

(E) A taxpayer purchasing new manufacturing machinery and 56516
equipment and intending to claim the credit shall file, with the 56517
department of development, a notice of intent to claim the credit 56518
on a form prescribed by the department of development. The 56519
department of development shall inform the tax commissioner of the 56520
notice of intent to claim the credit. 56521

(F) The director of development shall annually certify, by 56522
the first day of January of each year during the qualifying 56523
period, the eligible areas for the tax credit for the calendar 56524
year that includes that first day of January. The director shall 56525
send a copy of the certification to the tax commissioner. 56526

(G) New manufacturing machinery and equipment for which a 56527
taxpayer claims the credit under section 5733.31, 5733.311, 56528
5747.26, or 5747.261 of the Revised Code shall not be considered 56529
new manufacturing machinery and equipment for purposes of the 56530
credit under this section. 56531

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the 56532
Revised Code, but subject to division (H)(2) of this section, the 56533
tax commissioner may issue an assessment against a person with 56534

respect to a credit claimed under this section for new 56535
manufacturing machinery and equipment described in division 56536
(A)(1)(b) ~~or (2)(b)~~ of this section, if the machinery or equipment 56537
subsequently does not qualify for the credit. 56538

(2) Division (H)(1) of this section shall not apply after the 56539
twenty-fourth month following the last day of the period described 56540
in ~~divisions~~ division (A)(1)(b) ~~and (2)(b)~~ of this section. 56541

(I) Notwithstanding any other provision of this section to 56542
the contrary, in the case of a qualifying controlled group, the 56543
credit available under this section to a taxpayer or taxpayers in 56544
the qualifying controlled group shall be computed as if all 56545
corporations in the group were a single corporation. The credit 56546
shall be allocated to such a taxpayer or taxpayers in the group in 56547
any amount elected for the taxable year by the group. Such 56548
election shall be revocable and amendable during the period 56549
described in division (B) of section 5733.12 of the Revised Code. 56550

This division applies to all purchases of new manufacturing 56551
machinery and equipment made on or after January 1, 2001, and to 56552
all baseline years used to compute any credit attributable to such 56553
purchases; provided, that this division may be applied solely at 56554
the election of the qualifying controlled group with respect to 56555
all purchases of new manufacturing machinery and equipment made 56556
before that date, and to all baseline years used to compute any 56557
credit attributable to such purchases. The qualifying controlled 56558
group at any time may elect to apply this division to purchases 56559
made prior to January 1, 2001, subject to the following: 56560

(1) The election is irrevocable; 56561

(2) The election need not accompany a timely filed report, 56562
but the election may accompany a subsequently filed but timely 56563
application for refund, a subsequently filed but timely amended 56564
report, or a subsequently filed but timely petition for 56565

reassessment. 56566

Sec. 5733.39. (A) As used in this section: 56567

(1) "Compliance facility" means property that is designed, 56568
constructed, or installed, and used, at a coal-fired electric 56569
generating facility for the primary purpose of complying with acid 56570
rain control requirements under Title IV of the "Clean Air Act 56571
Amendments of 1990," 104 Stat. 2584, 42 U.S.C.A. 7651, and that 56572
controls or limits emissions of sulfur or nitrogen compounds 56573
resulting from the combustion of coal through the removal or 56574
reduction of those compounds before, during, or after the 56575
combustion of the coal, but before the combustion products are 56576
emitted into the atmosphere. "Compliance facility" also includes 56577
any of the following: 56578

(a) A facility that removes sulfur compounds from coal before 56579
the combustion of the coal and that is located off the premises of 56580
the electric generating facility where the coal processed by the 56581
compliance facility is burned; 56582

(b) Modifications to the electric generating facility where 56583
the compliance facility is constructed or installed that are 56584
necessary to accommodate the construction or installation, and 56585
operation, of the compliance facility; 56586

(c) A byproduct disposal facility, as defined in section 56587
3734.051 of the Revised Code, that exclusively disposes of wastes 56588
produced by the compliance facility and other coal combustion 56589
byproducts produced by the generating unit in or to which the 56590
compliance facility is incorporated or connected regardless of 56591
whether the byproduct disposal facility is located on the same 56592
premises as the compliance facility or generating unit that 56593
produces the wastes disposed of at the facility; 56594

(d) Facilities or equipment that is acquired, constructed, or 56595

installed, and used, at a coal-fired electric generating facility 56596
exclusively for the purpose of handling the byproducts produced by 56597
the compliance facility or other coal combustion byproducts 56598
produced by the generating unit in or to which the compliance 56599
facility is incorporated or connected; 56600

(e) A flue gas desulfurization system that is connected to a 56601
coal-fired electric generating unit; 56602

(f) Facilities or equipment acquired, constructed, or 56603
installed, and used, at a coal-fired electric generating unit 56604
primarily for the purpose of handling the byproducts produced by a 56605
compliance facility or other coal combustion byproducts produced 56606
by the generating unit in or to which the compliance facility is 56607
incorporated or connected. 56608

(2) "Ohio coal" has the same meaning as in section 4913.01 of 56609
the Revised Code. 56610

(3) "Sale and leaseback transaction" has the same meaning as 56611
in section 5727.01 of the Revised Code. 56612

(B) An electric company shall be allowed a nonrefundable 56613
credit against the tax imposed by section 5733.06 of the Revised 56614
Code for Ohio coal used in any of its coal-fired electric 56615
generating units after April 30, 2001, but before January 1, 2005. 56616
Section 5733.057 of the Revised Code shall apply when calculating 56617
the credit allowed by this section. The credit shall be claimed at 56618
the rate of three dollars per ton of Ohio coal burned in a 56619
coal-fired electric generating unit during the taxable year ending 56620
immediately preceding ~~the~~ a tax year before tax year 2004, and one 56621
dollar per ton of Ohio coal burned in a coal-fired electric 56622
generating unit during the taxable year ending immediately 56623
preceding tax year 2004 and tax year 2005. The credit is allowed 56624
only if both of the following conditions are met during such 56625
taxable year: 56626

(1) The coal-fired electric generating unit is owned and used 56627
by the company claiming the credit or leased and used by that 56628
company under a sale and leaseback transaction. 56629

(2) A compliance facility is attached to, incorporated in, or 56630
used in conjunction with the coal-fired generating unit. 56631

(C) The credit shall be claimed in the order required under 56632
section 5733.98 of the Revised Code. The taxpayer may carry 56633
forward any credit amount in excess of its tax due after allowing 56634
for any other credits that precede the credit allowed under this 56635
section in the order required under section 5733.98 of the Revised 56636
Code. The excess credit may be carried forward for three years 56637
following the tax year for which it is claimed under this section. 56638

(D) The director of environmental protection, upon the 56639
request of the tax commissioner, shall certify whether a facility 56640
is a compliance facility. In the case of a compliance facility 56641
owned by an electric company, the public utilities commission 56642
shall certify to the tax commissioner the cost of the facility as 56643
of the date it was placed in service. In the case of a compliance 56644
facility owned by a person other than an electric company, the tax 56645
commissioner shall determine the cost of the facility as of the 56646
date it was placed in service. If the owner of such a facility 56647
fails to furnish the information necessary to make that 56648
determination, no credit shall be allowed. 56649

Sec. 5733.40. As used in sections 5733.40 and 5733.41 and 56650
Chapter 5747. of the Revised Code: 56651

(A)(1) "Adjusted qualifying amount" means either of the 56652
following: 56653

(a) The sum of a each qualifying investor's distributive 56654
share of the income, gain, expense, or loss of a qualifying 56655
pass-through entity for the qualifying taxable year of the 56656

qualifying pass-through entity multiplied by the apportionment 56657
fraction defined in division (B) of this section, subject to 56658
section 5733.401 of the Revised Code and divisions (A)(2) to (7) 56659
of this section; 56660

(b) The sum of a each qualifying beneficiary's share of the 56661
qualifying net income and qualifying net gain distributed by a 56662
qualifying trust for the qualifying taxable year of the qualifying 56663
trust multiplied by the apportionment fraction defined in division 56664
(B) of this section, subject to section 5733.401 of the Revised 56665
Code and divisions (A)(2) to ~~(6)~~(7) of this section. 56666

(2) The sum shall exclude any amount which, pursuant to the 56667
Constitution of the United States, the Constitution of Ohio, or 56668
any federal law is not subject to a tax on or measured by net 56669
income. 56670

(3) ~~The sum shall be increased by~~ For the purposes of 56671
Chapters 5733. and 5747. of the Revised Code, the profit or net 56672
income of the qualifying entity shall be increased by disallowing 56673
all amounts representing expenses, other than amounts described in 56674
division (A)(7) of this section, that the qualifying entity paid 56675
to or incurred with respect to direct or indirect transactions 56676
with one or more related members, excluding the cost of goods sold 56677
calculated in accordance with section 263A of the Internal Revenue 56678
Code and United States department of the treasury regulations 56679
issued thereunder. Nothing in division (A)(3) of this section 56680
shall be construed to limit solely to this chapter the application 56681
of section 263A of the Internal Revenue Code and United States 56682
department of the treasury regulations issued thereunder. 56683

(4) ~~The sum shall be increased by~~ For the purposes of 56684
Chapters 5733. and 5747. of the Revised Code, the profit or net 56685
income of the qualifying entity shall be increased by disallowing 56686
all recognized losses, other than losses from sales of inventory 56687
the cost of which is calculated in accordance with section 263A of 56688

the Internal Revenue Code and United States department of the 56689
treasury regulations issued thereunder, with respect to all direct 56690
or indirect transactions with one or more related members. ~~Losses~~ 56691
For the purposes of Chapters 5733. and 5747. of the Revised Code, 56692
losses from the sales of ~~such~~ inventory shall be allowed only to 56693
the extent calculated in accordance with section 482 of the 56694
Internal Revenue Code and United States department of the treasury 56695
regulations issued thereunder. Nothing in division (A)(4) of this 56696
section shall be construed to limit solely to this section the 56697
application of section 263A and section 482 of the Internal 56698
Revenue Code and United States department of the treasury 56699
regulations issued thereunder. 56700

(5) The sum shall be increased or decreased by an amount 56701
equal to the qualifying investor's or qualifying beneficiary's 56702
distributive or proportionate share of the amount that the 56703
qualifying entity would be required to add or deduct under 56704
divisions (A)(20) and (21) of section 5747.01 of the Revised Code 56705
if the qualifying entity were a taxpayer for the purposes of 56706
Chapter 5747. of the Revised Code. 56707

(6) The sum shall be computed without regard to section 56708
5733.051 or division (D) of section 5733.052 of the Revised Code. 56709

(7) For the purposes of Chapters 5733. and 5747. of the 56710
Revised Code, guaranteed payments or compensation paid to 56711
investors by a qualifying entity that is not subject to the tax 56712
imposed by section 5733.06 of the Revised Code shall be considered 56713
a distributive share of income of the qualifying entity. Division 56714
(A)(7) of this section applies only to such payments or such 56715
compensation paid to an investor who at any time during the 56716
qualifying entity's taxable year holds at least a twenty per cent 56717
direct or indirect interest in the profits or capital of the 56718
qualifying entity. 56719

(B) "Apportionment fraction" means: 56720

(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 5733.056 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. 56752

(G) "Partnership" has the same meaning as in section 5747.01 of the Revised Code. 56753
56754

(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. 56755
56756
56757
56758

(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. 56759
56760
56761
56762

(1) An investor satisfying one of the descriptions under section 501(a) or (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 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. 56763
56764
56765
56766
56767
56768
56769
56770

(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. 56771
56772
56773
56774

(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. 56775
56776
56777
56778
56779
56780
56781

(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. 56782
56783
56784
56785
56786

(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. 56787
56788
56789
56790
56791
56792
56793
56794
56795
56796
56797

(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. 56798
56799
56800
56801
56802
56803

(7) An investor other than an individual that satisfies all the following: 56804
56805

(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 56806
56807
56808
56809
56810
56811
56812

of the qualifying pass-through entity. The statement is subject to 56813
the penalties of perjury, shall be retained by the qualifying 56814
pass-through entity for no fewer than seven years, and shall be 56815
delivered to the tax commissioner upon request. 56816

(b) The investor makes a good faith and reasonable effort to 56817
comply timely and fully with all the reporting and payment 56818
requirements set forth in Chapter 5733. of the Revised Code with 56819
respect to the investor's adjusted qualifying amount for the 56820
entire qualifying taxable year of the qualifying pass-through 56821
entity. 56822

(c) Neither the investor nor the qualifying pass-through 56823
entity in which it is an investor, before, during, or after the 56824
qualifying pass-through entity's qualifying taxable year, carries 56825
out any transaction or transactions with one or more related 56826
members of the investor or the qualifying pass-through entity 56827
resulting in a reduction or deferral of tax imposed by Chapter 56828
5733. of the Revised Code with respect to all or any portion of 56829
the investor's adjusted qualifying amount for the qualifying 56830
pass-through entity's taxable year, or that constitute a sham, 56831
lack economic reality, or are part of a series of transactions the 56832
form of which constitutes a step transaction or transactions or 56833
does not reflect the substance of those transactions. 56834

(8) Any other investor that the tax commissioner may 56835
designate by rule. The tax commissioner may adopt rules including 56836
a rule defining "qualifying investor" or "qualifying beneficiary" 56837
and governing the imposition of the withholding tax imposed by 56838
section 5747.41 of the Revised Code with respect to an individual 56839
who is a resident taxpayer for the purposes of Chapter 5747. of 56840
the Revised Code for only a portion of the qualifying taxable year 56841
of the qualifying entity. 56842

(9) An investor that is a trust or fund the beneficiaries of 56843
which, during the qualifying taxable year of the qualifying 56844

pass-through entity, are limited to the following: 56845

(a) A person that is or may be the beneficiary of a trust 56846
subject to Subchapter D of Chapter 1 of Subtitle A of the Internal 56847
Revenue Code. 56848

(b) A person that is or may be the beneficiary of or the 56849
recipient of payments from a trust or fund that is a nuclear 56850
decommissioning reserve fund, a designated settlement fund, or any 56851
other trust or fund established to resolve and satisfy claims that 56852
may otherwise be asserted by the beneficiary or a member of the 56853
beneficiary's family. Sections 267(c)(4), 468A(e), and 468B(d)(2) 56854
of the Internal Revenue Code apply to the determination of whether 56855
such a person satisfies division (I)(9) of this section. 56856

(c) A person who is or may be the beneficiary of a trust 56857
that, under its governing instrument, is not required to 56858
distribute all of its income currently. Division (I)(9)(c) of this 56859
section applies only if the trust, prior to the due date for 56860
filing the qualifying pass-through entity's return for taxes 56861
imposed by section 5733.41 and sections 5747.41 to 5747.453 of the 56862
Revised Code, irrevocably agrees in writing that for the taxable 56863
year during or for which the trust distributes any of its income 56864
to any of its beneficiaries, the trust is a qualifying trust and 56865
will pay the estimated tax, and will withhold and pay the withheld 56866
tax, as required under sections 5747.40 to 5747.453 of the Revised 56867
Code. 56868

For the purposes of division (I)(9) of this section, a trust 56869
or fund shall be considered to have a beneficiary other than 56870
persons described under divisions (I)(9)(a) to (c) of this section 56871
if a beneficiary would not qualify under those divisions under the 56872
doctrines of "economic reality," "sham transaction," "step 56873
doctrine," or "substance over form." A trust or fund described in 56874
division (I)(9) of this section bears the burden of establishing 56875
by a preponderance of the evidence that any transaction giving 56876

rise to the tax benefits provided under division (I)(9) of this 56877
section does not have as a principal purpose a claim of those tax 56878
benefits. Nothing in this section shall be construed to limit 56879
solely to this section the application of the doctrines referred 56880
to in this paragraph. 56881

(J) "Qualifying net gain" means any recognized net gain with 56882
respect to the acquisition, ownership, use, maintenance, 56883
management, or disposition of tangible personal property located 56884
in this state at any time during a trust's qualifying taxable year 56885
or real property located in this state. 56886

(K) "Qualifying net income" means any recognized income, net 56887
of related deductible expenses, other than distributions 56888
deductions with respect to the acquisition, ownership, use, 56889
maintenance, management, or disposition of tangible personal 56890
property located in this state at any time during the trust's 56891
qualifying taxable year or real property located in this state. 56892

(L) "Qualifying entity" means a qualifying pass-through 56893
entity or a qualifying trust. 56894

(M) "Qualifying trust" means a trust subject to subchapter J 56895
of the Internal Revenue Code that, during any portion of the 56896
trust's qualifying taxable year, has income or gain from the 56897
acquisition, management, ownership, use, or disposition of 56898
tangible personal property located in this state at any time 56899
during the trust's qualifying taxable year or real property 56900
located in this state. "Qualifying trust" does not include a 56901
person described in section 501(c) of the Internal Revenue Code or 56902
a person described in division (C) of section 5733.09 of the 56903
Revised Code. 56904

(N) "Qualifying pass-through entity" means a pass-through 56905
entity as defined in section 5733.04 of the Revised Code, 56906
excluding a person described in section 501(c) of the Internal 56907

Revenue Code, a partnership with equity securities registered with 56908
the United States securities and exchange commission under section 56909
12 of the Securities Exchange Act of 1934, as amended, or a person 56910
described in division (C) of section 5733.09 of the Revised Code. 56911

(O) "Quarter" means the first three months, the second three 56912
months, the third three months, or the last three months of a 56913
qualifying entity's qualifying taxable year. 56914

(P) "Related member" has the same meaning as in ~~division~~ 56915
~~(A)(6)~~ of section 5733.042 of the Revised Code without regard to 56916
division (B) of that section. However, for the purposes of 56917
divisions (A)(3) and (4) of this section only, "related member" 56918
has the same meaning as in ~~division (A)(6)~~ of section 5733.042 of 56919
the Revised Code without regard to division (B) of that section, 56920
but shall be applied by substituting "forty per cent" for "twenty 56921
per cent" wherever "twenty per cent" appears in division (A)(3) of 56922
that section. 56923

(Q) "Return" or "report" means the notifications and reports 56924
required to be filed pursuant to sections 5747.42 to 5747.45 of 56925
the Revised Code for the purpose of reporting the tax imposed 56926
under section 5733.41 or 5747.41 of the Revised Code, and included 56927
declarations of estimated tax when so required. 56928

(R) "Qualifying taxable year" means the calendar year or the 56929
qualifying entity's fiscal year ending during the calendar year, 56930
or fractional part thereof, for which the adjusted qualifying 56931
amount is calculated pursuant to sections 5733.40 and 5733.41 or 56932
sections 5747.40 to 5747.453 of the Revised Code. 56933

(S) "Distributive share" includes the sum of the income, 56934
gain, expense, or loss of a disregarded entity or qualified 56935
subchapter S subsidiary. 56936

Sec. 5733.45. (A) For purposes of this section, a "qualifying 56937

dealer in intangibles" is a dealer in intangibles that is a member 56938
of a qualifying controlled group of which a financial institution 56939
is also a member on the first day of the financial institution's 56940
tax year. 56941

(B) For tax years 2002, 2003, and ~~thereafter~~ 2004, there is 56942
hereby allowed to each financial institution a nonrefundable 56943
credit against the tax imposed by section 5733.06 of the Revised 56944
Code. The amount of the credit shall be computed in accordance 56945
with division (C) of this section. The credit shall be claimed in 56946
the order prescribed by section 5733.98 of the Revised Code. The 56947
credit shall not exceed the amount of tax otherwise due under 56948
section 5733.06 of the Revised Code after deducting any other 56949
credits that precede the credit claimed under this section in that 56950
order. 56951

(C) Subject to division (D) of this section, the amount of 56952
the nonrefundable credit is the lesser of the amount described in 56953
division (C)(1) of this section or the amount described in 56954
division (C)(2) of this section. 56955

(1) The amount of tax that a qualifying dealer in intangibles 56956
paid under Chapter 5707. of the Revised Code during the calendar 56957
year immediately preceding the financial institution's tax year. 56958
Such amount shall be reduced, but not below zero, by any refunds 56959
of such tax received by the qualifying dealer in intangibles under 56960
Chapter 5703. of the Revised Code during that calendar year. 56961

(2) The product of the amounts described in division 56962
(C)(2)(a) to (C)(2)(c) of this section. The amount described in 56963
division (C)(2)(a) of this section shall be ascertained on the 56964
last day of the financial institution's taxable year immediately 56965
preceding the tax year. 56966

(a) The cost of the financial institution's direct investment 56967
in the capital stock of the qualifying dealer in intangibles. The 56968

cost does not include any appreciation or goodwill to the extent 56969
those amounts are allowed as an exempted asset on the financial 56970
institution's annual report. 56971

(b) The ratio described in section 5725.15 of the Revised 56972
Code for the calendar year immediately preceding the financial 56973
institution's tax year; 56974

(c) The tax rate imposed under division (D) of section 56975
5707.03 of the Revised Code for the calendar year immediately 56976
preceding the financial institution's tax year. 56977

(D)(1) The principles and concepts set forth in section 56978
5733.057 of the Revised Code shall apply to ascertain if a dealer 56979
in intangibles is a member of a qualifying controlled group of 56980
which the financial institution also is a member and to ascertain 56981
the cost of the financial institution's direct investment in the 56982
capital stock of the qualifying dealer in intangibles. 56983

(2) Notwithstanding section ~~5733.111~~ 5703.56 of the Revised 56984
Code to the contrary, a financial institution claiming the credit 56985
provided by this section has the burden to establish by a 56986
preponderance of the evidence that none of the doctrines referred 56987
to in that section would apply to deny to the financial 56988
institution all or a part of the credit otherwise provided by this 56989
section. 56990

(E) For tax years 2002 and 2003, the credit allowed by this 56991
section applies only if the qualifying dealer in intangibles on 56992
account of which the financial institution is claiming the credit 56993
submits to the ~~Tax Commissioner~~ tax commissioner, not later than 56994
January 15, 2002, a written statement that the qualifying dealer 56995
in intangibles irrevocably agrees that it will not seek a refund 56996
of the tax paid by the dealer under section 5707.03 of the Revised 56997
Code in 2000 and 2001, and irrevocably agrees to continue paying 56998
that tax in 2002, regardless of the amendment of section 5725.26 56999

of the Revised Code by Am. Sub. H.B. 405 of the 124th general assembly. 57000
57001

Sec. 5733.55. (A) As used in this section: 57002

(1) "9-1-1 system" has the same meaning as in section 4931.40 of the Revised Code. 57003
57004

(2) "Nonrecurring 9-1-1 charges" means nonrecurring charges approved by the public utilities commission for the telephone network portion of a 9-1-1 system pursuant to section 4931.47 of the Revised Code. 57005
57006
57007
57008

(3) "Eligible nonrecurring 9-1-1 charges" means all nonrecurring 9-1-1 charges for a 9-1-1 system, except: 57009
57010

(a) Charges for a system that was not established pursuant to a plan adopted under section 4931.44 of the Revised Code or an agreement under section 4931.48 of the Revised Code; 57011
57012
57013

(b) Charges for that part of a system established pursuant to such a plan or agreement that are excluded from the credit by division (C)(2) of section 4931.47 of the Revised Code. 57014
57015
57016

(4) "Telephone company" has the same meaning as in section 5727.01 of the Revised Code. 57017
57018

(B) Beginning in tax year 2005, a telephone company shall be allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code equal to the amount of its eligible nonrecurring 9-1-1 charges. The credit shall be claimed in the company's taxable year that covers the period in which the service for which the credit is claimed becomes available for use. The credit shall be claimed in the order required by section 5733.98 of the Revised Code. If the credit exceeds the total taxes due under section 5733.06 of the Revised Code for the tax year, the commissioner shall credit the excess against taxes due under that section for succeeding tax years until the full amount of the 57019
57020
57021
57022
57023
57024
57025
57026
57027
57028
57029

credit is granted. 57030

(C) After the last day a return, with any extensions, may be 57031
filed by any telephone company that is eligible to claim a credit 57032
under this section, the commissioner shall determine whether the 57033
sum of the credits allowed for all prior tax years plus the sum of 57034
the credits claimed for the current tax year exceeds fifteen 57035
million dollars. If it does, the credits allowed under this 57036
section for the current tax year shall be reduced by a uniform 57037
percentage such that the sum of the credits allowed for the 57038
current tax year do not exceed fifteen million dollars. 57039
Thereafter, no credit shall be granted under this section, except 57040
for the remaining portions of any credits allowed under division 57041
(B) of this section. 57042

(D) A telephone company that is entitled to carry forward a 57043
credit against its public utility excise tax liability under 57044
section 5727.39 of the Revised Code is entitled to carry forward 57045
any amount of that credit remaining after its last public utility 57046
excise tax payment for the period of July 1, 2003, through June 57047
30, 2004, and claim that amount as a credit against its 57048
corporation franchise tax liability under this section. Nothing in 57049
this section authorizes a telephone company to claim a credit 57050
under this section for any eligible nonrecurring 9-1-1 charges for 57051
which it has already claimed as a credit under section 5727.39 of 57052
the Revised Code. 57053

Sec. 5733.56. Beginning in tax year 2005, a telephone company 57054
that provides any telephone service program to aid the 57055
communicatively impaired in accessing the telephone network under 57056
section 4905.79 of the Revised Code is allowed a nonrefundable 57057
credit against the tax imposed by section 5733.06 of the Revised 57058
Code. The amount of the credit is the cost incurred by the company 57059
for providing the telephone service program during its taxable 57060

year, excluding any costs incurred prior to July 1, 2004. If the 57061
tax commissioner determines that the credit claimed under this 57062
section by a telephone company was not correct, the commissioner 57063
shall determine the proper credit. 57064

A telephone company shall claim the credit in the order 57065
required by section 5733.98 of the Revised Code. If the credit 57066
exceeds the total taxes due under section 5733.06 of the Revised 57067
Code for the tax year, the commissioner shall credit the excess 57068
against taxes due under that section for succeeding tax years 57069
until the full amount of the credit is granted. Nothing in this 57070
section authorizes a telephone company to claim a credit under 57071
this section for any costs incurred for providing a telephone 57072
service program for which it is claiming a credit under section 57073
5727.44 of the Revised Code. 57074

Sec. 5733.57. (A) As used in this section: 57075

(1) "Small telephone company" means a telephone company with 57076
twenty-five thousand or fewer access lines as shown on the 57077
company's annual report filed under section 4905.14 of the Revised 57078
Code for the calendar year immediately preceding the tax year, and 57079
is an "incumbent local exchange carrier" under 47 U.S.C. 251(h). 57080

(2) "Gross receipts tax amount" means the product obtained by 57081
multiplying four and three-fourths per cent by the amount of a 57082
small telephone company's taxable gross receipts, excluding the 57083
deduction of twenty-five thousand dollars, that the tax 57084
commissioner would have determined under section 5727.33 of the 57085
Revised Code for that small telephone company for the annual 57086
period ending on the thirtieth day of June of the calendar year 57087
immediately preceding the tax year, as that section applied in the 57088
measurement period from July 1, 2002, to June 30, 2003. 57089

(3) "Applicable percentage" means one hundred per cent for 57090
tax year 2005; sixty-seven per cent for tax year 2006; thirty-four 57091

per cent for tax year 2007; and zero per cent for each subsequent 57092
tax year thereafter. 57093

(4) "Applicable amount" means the amount resulting from 57094
subtracting the gross receipts tax amount from the tax imposed by 57095
sections 5733.06, 5733.065, and 5733.066 of the Revised Code for 57096
the tax year, without regard to any credits available to the small 57097
telephone company. 57098

(B)(1) Except as provided in division (B)(2) of this section, 57099
beginning in tax year 2005, a small telephone company is hereby 57100
allowed a nonrefundable credit against the tax imposed by sections 57101
5733.06, 5733.065, and 5733.066 of the Revised Code, equal to the 57102
product obtained by multiplying the applicable percentage by the 57103
applicable amount. The credit shall be claimed in the order 57104
required by section 5733.98 of the Revised Code. 57105

(2) If the applicable amount for a tax year is less than 57106
zero, a small telephone company shall not be allowed for that tax 57107
year the credit provided under this section. 57108

Sec. 5733.98. (A) To provide a uniform procedure for 57109
calculating the amount of tax imposed by section 5733.06 of the 57110
Revised Code that is due under this chapter, a taxpayer shall 57111
claim any credits to which it is entitled in the following order, 57112
except as otherwise provided in section 5733.058 of the Revised 57113
Code: 57114

(1) The credit for taxes paid by a qualifying pass-through 57115
entity allowed under section 5733.0611 of the Revised Code; 57116

(2) The credit allowed for financial institutions under 57117
section 5733.45 of the Revised Code; 57118

~~(3) The credit for qualifying affiliated groups under section~~ 57119
~~5733.068 of the Revised Code;~~ 57120

~~(4) The subsidiary corporation credit under section 5733.067~~ 57121

of the Revised Code;	57122
(5) <u>(4)</u> The savings and loan assessment credit under section 5733.063 of the Revised Code;	57123 57124
(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	57125 57126
(7) The credit for employers that enter into agreements with child day care centers under section 5733.36 of the Revised Code;	57127 57128
(8) The credit for employers that reimburse employee child day care expenses under section 5733.38 of the Revised Code;	57129 57130
(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	57131 57132
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	57133 57134
(11) <u>(5)</u> The job retention credit under division (B) of section 5733.0610 of the Revised Code;	57135 57136
(12) <u>(6)</u> The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of th <u>the</u> Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;	57137 57138 57139 57140
(13) <u>(7)</u> The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;	57141 57142 57143
(14) <u>(8)</u> The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	57144 57145
(15) <u>(9)</u> The job training credit under section 5733.42 of the Revised Code;	57146 57147
(16) <u>(10)</u> The credit for qualified research expenses under section 5733.351 of the Revised Code;	57148 57149
(17) The enterprise zone credit under section 5709.66 of the	57150

Revised Code;	57151
(18) <u>(11)</u> The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	57152 57153
(19) <u>(12)</u> The credit for employers that establish on-site child day-care under section 5733.37 of the Revised Code;	57154 57155
(20) <u>(13)</u> The ethanol plant investment credit under section 5733.46 of the Revised Code;	57156 57157
(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	57158 57159
(22) <u>(14)</u> The export sales credit under section 5733.069 of the Revised Code;	57160 57161
(23) <u>(15)</u> The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	57162 57163 57164
(24) The enterprise zone credits under section 5709.65 of the Revised Code;	57165 57166
(25) <u>(16)</u> <u>The credit for small telephone companies under section 5733.57 of the Revised Code;</u>	57167 57168
<u>(17)</u> The credit for using Ohio coal under section 5733.39 of the Revised Code;	57169 57170
(26) <u>(18)</u> <u>The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;</u>	57171 57172
<u>(19)</u> <u>The credit for providing programs to aid the communicatively impaired under section 5733.56 of the Revised Code;</u>	57173 57174 57175
<u>(20)</u> The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;	57176 57177
(27) <u>(21)</u> The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;	57178 57179

~~(28)~~(22) The credit for losses on loans made to the Ohio 57180
venture capital program under sections 150.01 to 150.10 of the 57181
Revised Code if the taxpayer elected a refundable credit under 57182
section 150.07 of the Revised Code. 57183

(B) For any credit except the credits enumerated in divisions 57184
(A)~~(26)~~(20), ~~(27)~~(21), and ~~(28)~~(22) of this section, the amount of 57185
the credit for a tax year shall not exceed the tax due after 57186
allowing for any other credit that precedes it in the order 57187
required under this section. Any excess amount of a particular 57188
credit may be carried forward if authorized under the section 57189
creating that credit. 57190

Sec. 5735.05. (A) To provide revenue for maintaining the 57191
state highway system; to widen existing surfaces on such highways; 57192
to resurface such highways; to pay that portion of the 57193
construction cost of a highway project which a county, township, 57194
or municipal corporation normally would be required to pay, but 57195
which the director of transportation, pursuant to division (B) of 57196
section 5531.08 of the Revised Code, determines instead will be 57197
paid from moneys in the highway operating fund; to enable the 57198
counties of the state properly to plan, maintain, and repair their 57199
roads and to pay principal, interest, and charges on bonds and 57200
other obligations issued pursuant to Chapter 133. of the Revised 57201
Code for highway improvements; to enable the municipal 57202
corporations to plan, construct, reconstruct, repave, widen, 57203
maintain, repair, clear, and clean public highways, roads, and 57204
streets, and to pay the principal, interest, and charges on bonds 57205
and other obligations issued pursuant to Chapter 133. of the 57206
Revised Code for highway improvements; to enable the Ohio turnpike 57207
commission to construct, reconstruct, maintain, and repair 57208
turnpike projects; to maintain and repair bridges and viaducts; to 57209
purchase, erect, and maintain street and traffic signs and 57210

markers; to purchase, erect, and maintain traffic lights and 57211
signals; to pay the costs apportioned to the public under sections 57212
4907.47 and 4907.471 of the Revised Code and to supplement revenue 57213
already available for such purposes; to pay the costs incurred by 57214
the public utilities commission in administering sections 4907.47 57215
to 4907.476 of the Revised Code; to distribute equitably among 57216
those persons using the privilege of driving motor vehicles upon 57217
such highways and streets the cost of maintaining and repairing 57218
them; to pay the interest, principal, and charges on highway 57219
capital improvements bonds and other obligations issued pursuant 57220
to Section 2m of Article VIII, Ohio Constitution, and section 57221
151.06 of the Revised Code; to pay the interest, principal, and 57222
charges on highway obligations issued pursuant to Section 2i of 57223
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 57224
of the Revised Code; ~~and~~ to provide revenue for the purposes of 57225
sections 1547.71 to 1547.78 of the Revised Code; and to pay the 57226
expenses of the department of taxation incident to the 57227
administration of the motor fuel laws, a motor fuel excise tax is 57228
hereby imposed on all motor fuel dealers upon receipt of motor 57229
fuel within this state at the rate of two cents plus the cents per 57230
gallon rate on each gallon so received, to be computed in the 57231
manner set forth in section 5735.06 of the Revised Code; provided 57232
that no tax is hereby imposed upon the following transactions: 57233

(1) The sale of dyed diesel fuel by a licensed motor fuel 57234
dealer from a location other than a retail service station 57235
provided the licensed motor fuel dealer places on the face of the 57236
delivery document or invoice, or both if both are used, a 57237
conspicuous notice stating that the fuel is dyed and is not for 57238
taxable use, and that taxable use of that fuel is subject to a 57239
penalty. The tax commissioner, by rule, may provide that any 57240
notice conforming to rules or regulations issued by the United 57241
States department of the treasury or the Internal Revenue Service 57242
is sufficient notice for the purposes of division (A)(1) of this 57243

section. 57244

(2) The sale of K-1 kerosene to a retail service station, 57245
except when placed directly in the fuel supply tank of a motor 57246
vehicle. Such sale shall be rebuttably presumed to not be 57247
distributed or sold for use or used to generate power for the 57248
operation of motor vehicles upon the public highways or upon the 57249
waters within the boundaries of this state. 57250

(3) The sale of motor fuel by a licensed motor fuel dealer to 57251
another licensed motor fuel dealer; 57252

(4) The exportation of motor fuel by a licensed motor fuel 57253
dealer from this state to any other state or foreign country; 57254

(5) The sale of motor fuel to the United States government or 57255
any of its agencies, except such tax as is permitted by it, where 57256
such sale is evidenced by an exemption certificate, in a form 57257
approved by the tax commissioner, executed by the United States 57258
government or an agency thereof certifying that the motor fuel 57259
therein identified has been purchased for the exclusive use of the 57260
United States government or its agency; 57261

(6) The sale of motor fuel ~~which~~ that is in the process of 57262
transportation in foreign or interstate commerce, except ~~in so far~~ 57263
insofar as it may be taxable under the Constitution and statutes 57264
of the United States, and except as may be agreed upon in writing 57265
by the dealer and the commissioner; 57266

(7) The sale of motor fuel when sold exclusively for use in 57267
the operation of aircraft, where such sale is evidenced by an 57268
exemption certificate prescribed by the commissioner and executed 57269
by the purchaser certifying that the motor fuel purchased has been 57270
purchased for exclusive use in the operation of aircraft; 57271

(8) The sale for exportation of motor fuel by a licensed 57272
motor fuel dealer to a licensed exporter type A; 57273

(9) The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter type B, provided that the destination state motor fuel tax has been paid or will be accrued and paid by the licensed motor fuel dealer.

(10) The sale to a consumer of diesel fuel, by a motor fuel dealer for delivery from a bulk lot vehicle, for consumption in operating a vessel when the use of such fuel in a vessel would otherwise qualify for a refund under section 5735.14 of the Revised Code.

Division (A)(1) of this section does not apply to the sale or distribution of dyed diesel fuel used to operate a motor vehicle on the public highways or upon water within the boundaries of this state by persons permitted under regulations of the United States department of the treasury or of the Internal Revenue Service to so use dyed diesel fuel.

(B) The two cent motor fuel tax levied by this section is also for the purpose of paying the expenses of administering and enforcing the state law relating to the registration and operation of motor vehicles.

(C) After the tax provided for by this section on the receipt of any motor fuel has been paid by the motor fuel dealer, the motor fuel may thereafter be used, sold, or resold by any person having lawful title to it, without incurring liability for such tax.

If a licensed motor fuel dealer sells motor fuel received by the licensed motor fuel dealer to another licensed motor fuel dealer, the seller may deduct on the report required by section 5735.06 of the Revised Code the number of gallons so sold for the month within which the motor fuel was sold or delivered. In this event the number of gallons is deemed to have been received by the purchaser, who shall report and pay the tax imposed thereon.

Sec. 5735.053. There is hereby created in the state treasury 57305
the motor fuel tax administration fund for the purpose of paying 57306
the expenses of the department of taxation incident to the 57307
administration of the motor fuel laws. After the treasurer of 57308
state credits the tax refund fund out of tax receipts as required 57309
by sections 5735.23, 5735.26, 5735.291, and 5735.30 of the Revised 57310
Code, the treasurer of state shall transfer to the motor fuel tax 57311
administration fund two hundred seventy-five one-thousandths per 57312
cent of the receipts from the taxes levied by sections 5735.05, 57313
5735.25, 5735.29, and 5735.30 of the Revised Code. 57314

Sec. 5735.14. (A) Any person who uses any motor fuel, on 57315
which the tax imposed by this chapter has been paid, for the 57316
purpose of operating stationary gas engines, tractors not used on 57317
public highways, unlicensed motor vehicles used exclusively in 57318
intraplant operations, vessels when used in trade, including 57319
vessels when used in connection with an activity that constitutes 57320
a person's chief business or means of livelihood or any other 57321
vessel used entirely for commercial purposes, vessels used for 57322
commercial fishing, vessels used by the sea scout department of 57323
the boy scouts of America chiefly for training scouts in 57324
seamanship, vessels used or owned by any railroad company, 57325
railroad car ferry company, the United States, this state, or any 57326
political subdivision of this state, or aircraft, or who uses any 57327
such fuel upon which such tax has been paid, for cleaning or for 57328
dyeing, or any purpose other than the operation of motor vehicles 57329
upon highways or upon waters within the boundaries of this state, 57330
shall be reimbursed in the amount of the tax so paid on such motor 57331
fuel as provided in this section; provided, that any person 57332
purchasing motor fuel in this state on which taxes levied under 57333
Title LVII of the Revised Code have been paid shall be reimbursed 57334
for such taxes paid in this state on such fuel used by that person 57335

in another state on which a tax is paid for such usage, except 57336
such tax used as a credit against the tax levied by section 57337
5728.06 of the Revised Code. A person shall not be reimbursed for 57338
taxes paid on fuel that is used while a motor vehicle is idling or 57339
used to provide comfort or safety in the operation of a motor 57340
vehicle. Sales of motor fuel, on which the tax imposed by this 57341
chapter has been paid, from one person to another do not 57342
constitute use of the fuel and are not subject to a refund under 57343
this section. 57344

Such (B) Any person who uses in this state any motor fuel 57345
with water intentionally added to the fuel, on which the taxes 57346
imposed by this chapter or Chapter 5728. of the Revised Code have 57347
been paid, shall be reimbursed in the amount of the taxes so paid 57348
on ninety-five per cent of the water. This division applies only 57349
to motor fuel that contains at least nine per cent water, by 57350
volume. 57351

(C) A person claiming reimbursement under this section shall 57352
file with the tax commissioner an application for refund within 57353
one year from the date of purchase, stating the quantity of fuel 57354
used for the refundable purposes other than the operation of motor 57355
vehicles in division (A) or (B) of this section, except that no 57356
person shall file a claim for the tax on fewer than one hundred 57357
gallons of motor fuel. An application for refund filed for the 57358
purpose of division (B) of this section also shall state the 57359
quantity of water intentionally added to the motor fuel. No person 57360
shall claim reimbursement under that division on fewer than one 57361
hundred gallons of water. The application shall be accompanied by 57362
the statement described in section 5735.15 of the Revised Code 57363
showing such purchase, together with evidence of payment thereof. 57364

(D) After consideration of the application and statement, the 57365
commissioner shall determine the amount of refund to which the 57366
applicant is entitled. If the amount is not less than that 57367

claimed, the commissioner shall certify the amount to the director 57368
of budget and management and treasurer of state for payment from 57369
the tax refund fund created by section 5703.052 of the Revised 57370
Code. If the amount is less than that claimed, the commissioner 57371
shall proceed in accordance with section 5703.70 of the Revised 57372
Code. 57373

No refund shall be authorized or paid under this section on a 57374
single claim for tax on fewer than one hundred gallons of motor 57375
fuel. And, when water has been intentionally added to fuel, no 57376
refund shall be authorized or paid under this section on a single 57377
claim for tax on fewer than one hundred gallons of water. The 57378
commissioner may require that the application be supported by the 57379
affidavit of the claimant. 57380

The refund authorized by this section or section 5703.70 of 57381
the Revised Code shall be reduced by the cents per gallon amount 57382
of any qualified fuel credit received under section 5735.145 of 57383
the Revised Code, as determined by the commissioner, for each 57384
gallon of qualified fuel included in the total gallonage of motor 57385
fuel upon which the refund is computed. 57386

(E) The right to receive any refund under this section or 57387
section 5703.70 of the Revised Code is not assignable. The payment 57388
of this refund shall not be made to any person other than the 57389
person originally entitled thereto who used the motor fuel upon 57390
which the claim for refund is based, except that such refunds, 57391
when allowed and certified as provided in this section, 57392
may be paid to the executor, ~~the~~ administrator, ~~the~~ receiver, ~~the~~ trustee 57393
in bankruptcy, or ~~the~~ assignee in insolvency proceedings of such 57394
person. 57395

Sec. 5735.15. When motor fuel is sold to a person who claims 57396
to be entitled to a refund under section 5735.14 or 5735.142 of 57397
the Revised Code, the seller of such motor fuel shall ~~make out in~~ 57398

~~duplicate on forms prescribed and supplied by the tax~~ 57399
~~commissioner, which forms shall have printed thereon~~ provide to 57400
the person documentation that indicates that the liability to the 57401
state for the excise tax imposed under the motor fuel laws of this 57402
state on such motor fuel has been assumed by the seller, and that 57403
said excise tax has already been paid or will be paid by the 57404
seller when the same becomes payable, ~~a statement setting. The~~ 57405
documentation also shall set forth the name and address of the 57406
purchaser, the number of gallons of motor fuel sold, the price 57407
paid for or the price per gallon of the motor fuel sold, the 57408
proposed use for which such motor fuel is purchased, and such 57409
other information as the commissioner requires. When motor fuel is 57410
sold to a person who claims to be entitled to reimbursement under 57411
division (B) of section 5735.14 of the Revised Code, the 57412
documentation also shall state the number of gallons of water 57413
intentionally added to the motor fuel. The ~~original of such~~ 57414
~~statement~~ documentation shall be given to the purchaser, and ~~the~~ 57415
~~duplicate~~ a copy shall be retained by the seller. 57416

Sec. 5735.19. (A) The tax commissioner may examine, during 57417
the usual business hours of the day, the records, books, ~~and~~ 57418
~~papers~~ invoices, storage tanks, and any other equipment of any 57419
motor fuel dealer, retail dealer, exporter, terminal operator, 57420
purchaser, or common carrier pertaining to motor fuel received, 57421
sold, shipped, or delivered, to determine whether the taxes 57422
imposed by this chapter have been paid and to verify the truth and 57423
accuracy of any statement, report, or return. ~~The~~ 57424

(B) ~~The tax~~ commissioner may, in the enforcement of the motor 57425
fuel laws of this state, hold hearings, take the testimony of any 57426
person, issue subpoenas and compel the attendance of witnesses, 57427
and conduct such investigations as the commissioner deems 57428
necessary, ~~but no person shall disclose the information acquired~~ 57429
~~by the commissioner under this section, except when required to de~~ 57430

~~so in court.~~ Such information or evidence is not privileged when 57431
used by the state or any officer thereof in any proceeding for the 57432
collection of the tax, or any prosecution for violation of the 57433
motor fuel laws. 57434

(C) The commissioner may prescribe all forms upon which 57435
reports shall be made to the commissioner, forms for claims for 57436
refund presented to the commissioner, or forms of records to be 57437
used by motor fuel dealers. 57438

(D)(1) As used in this division, "designated inspection site" 57439
means any state highway inspection station, weigh station, mobile 57440
station, or other similar location designated by the tax 57441
commissioner to be used as a fuel inspection site. 57442

(2) An employee of the department of taxation that is so 57443
authorized by the tax commissioner may physically inspect, 57444
examine, or otherwise search any tank, reservoir, or other 57445
container that can or may be used for the production, storage, or 57446
transportation of fuel, fuel dyes, or fuel markers, and books and 57447
records, if any, that are maintained at the place of inspection 57448
and are kept to determine tax liability under this chapter. 57449
Inspections may be performed at any place at which motor fuel is 57450
or may be produced or stored, or at any designated inspection 57451
site. 57452

(3) An employee of the department of taxation who has been 57453
delegated investigation powers by the commissioner under section 57454
5703.58 of the Revised Code may detain any motor vehicle, train, 57455
barge, ship, or vessel for the purpose of inspecting its fuel 57456
tanks and storage tanks. Detainment shall be on the premises under 57457
inspection or at a designated inspection site. Detainment may 57458
continue for a reasonable period of time as is necessary to 57459
determine the amount and composition of the fuel. 57460

(4) Any employee described in division (D)(2) or (3) of this 57461

section may take and remove samples of fuel in quantities as are 57462
reasonably necessary to determine the composition of the fuel. 57463

(5) No person shall refuse to allow an inspection under 57464
division (D) of this section. Any person who refuses to allow an 57465
inspection shall be subject to revocation or cancellation of any 57466
license or permit issued under Chapter 5728. or 5735. of the 57467
Revised Code. 57468

Sec. 5735.23. (A) Out of receipts from the tax levied by 57469
section 5735.05 of the Revised Code, the treasurer of state shall 57470
place to the credit of the tax refund fund established by section 57471
5703.052 of the Revised Code amounts equal to the refunds 57472
certified by the tax commissioner pursuant to sections 5735.13, 57473
5735.14, 5735.141, 5735.142, and 5735.16 of the Revised Code. The 57474
treasurer of state shall then transfer the amount required by 57475
section 5735.051 of the Revised Code to the waterways safety fund 57476
and, the amount required by section 4907.472 of the Revised Code 57477
to the grade crossing protection fund, and the amount required by 57478
section 5735.053 of the Revised Code to the motor fuel tax 57479
administration fund. 57480

(B) Except as provided in division (D) of this section, each 57481
month the balance of the receipts from the tax levied by section 57482
5735.05 of the Revised Code shall be credited, after receipt by 57483
the treasurer of state of certification from the commissioners of 57484
the sinking fund, as required by section 5528.35 of the Revised 57485
Code, that there are sufficient moneys to the credit of the 57486
highway obligations bond retirement fund to meet in full all 57487
payments of interest, principal, and charges for the retirement of 57488
highway obligations issued pursuant to Section 2i of Article VIII, 57489
Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised 57490
Code due and payable during the current calendar year, as follows: 57491

(1) To the state and local government highway distribution 57492

fund, which is hereby created in the state treasury, an amount 57493
that is the same percentage of the balance to be credited as that 57494
portion of the tax per gallon determined under division (B)(2)(a) 57495
of section 5735.06 of the Revised Code is of the total tax per 57496
gallon determined under divisions (B)(2)(a) and (b) of that 57497
section. 57498

(2) After making the distribution to the state and local 57499
government highway distribution fund, the remainder shall be 57500
credited as follows: 57501

(a) Thirty per cent to the gasoline excise tax fund for 57502
distribution pursuant to division (A)(1) of section 5735.27 of the 57503
Revised Code; 57504

(b) Twenty-five per cent to the gasoline excise tax fund for 57505
distribution pursuant to division (A)(3) of section 5735.27 of the 57506
Revised Code; 57507

(c) Except as provided in division (D) of this section, 57508
forty-five per cent to the highway operating fund for distribution 57509
pursuant to division (B)(1) of section 5735.27 of the Revised 57510
Code. 57511

(C) From the balance in the state and local government 57512
highway distribution fund on the last day of each month there 57513
shall be paid the following amounts: 57514

(1) To the local transportation improvement program fund 57515
created by section 164.14 of the Revised Code, an amount equal to 57516
a fraction of the balance in the state and local government 57517
highway distribution fund, the numerator of which fraction is one 57518
and the denominator of which fraction is that portion of the tax 57519
per gallon determined under division (B)(2)(a) of section 5735.06 57520
of the Revised Code; 57521

(2) An amount equal to five cents multiplied by the number of 57522
gallons of motor fuel sold at stations operated by the Ohio 57523

turnpike commission, such gallonage to be certified by the 57524
commission to the treasurer of state not later than the last day 57525
of the month following. The funds paid to the commission pursuant 57526
to this section shall be expended for the construction, 57527
reconstruction, maintenance, and repair of turnpike projects, 57528
except that the funds may not be expended for the construction of 57529
new interchanges. The funds also may be expended for the 57530
construction, reconstruction, maintenance, and repair of those 57531
portions of connecting public roads that serve existing 57532
interchanges and are determined by the commission and the director 57533
of transportation to be necessary for the safe merging of traffic 57534
between the turnpike and those public roads. 57535

The remainder of the balance shall be distributed as follows 57536
on the fifteenth day of the following month: 57537

(a) Ten and seven-tenths per cent shall be paid to municipal 57538
corporations for distribution pursuant to division (A)(1) of 57539
section 5735.27 of the Revised Code and may be used for any 57540
purpose for which payments received under that division may be 57541
used. 57542

(b) Five per cent shall be paid to townships for distribution 57543
pursuant to division (A)(5) of section 5735.27 of the Revised Code 57544
and may be used for any purpose for which payments received under 57545
that division may be used. 57546

(c) Nine and three-tenths per cent shall be paid to counties 57547
for distribution pursuant to division (A)(3) of section 5735.27 of 57548
the Revised Code and may be used for any purpose for which 57549
payments received under that division may be used. 57550

(d) Except as provided in division (D) of this section, the 57551
balance shall be transferred to the highway operating fund and 57552
used for the purposes set forth in division (B)(1) of section 57553
5735.27 of the Revised Code. 57554

(D) Beginning on the first day of September each fiscal year, 57555
any amounts required to be credited or transferred to the highway 57556
operating fund pursuant to division (B)(2)(c) or (C)(2)(d) of this 57557
section shall be credited or transferred to the highway capital 57558
improvement bond service fund created in section 151.06 of the 57559
Revised Code, until such time as the office of budget and 57560
management receives certification from the treasurer of state or 57561
the treasurer of state's designee that sufficient money has been 57562
credited or transferred to the bond service fund to meet in full 57563
all payments of debt service and financing costs due during the 57564
fiscal year from that fund. 57565

Sec. 5735.26. The treasurer of state shall place to the 57566
credit of the tax refund fund created by section 5703.052 of the 57567
Revised Code, out of receipts from the tax levied by section 57568
5735.25 of the Revised Code, amounts equal to the refunds 57569
certified by the tax commissioner pursuant to sections 5735.142 57570
and 5735.25 of the Revised Code, which shall be paid from such 57571
fund. ~~Receipts from the tax shall be used by the tax commissioner~~ 57572
~~for the maintenance and administration of the motor fuel laws.~~ The 57573
treasurer of state shall then transfer the amount required by 57574
section 5735.051 of the Revised Code to the waterways safety fund 57575
and the amount required by section 5735.053 of the Revised Code to 57576
the motor fuel tax administration fund. 57577

The balance of taxes collected under section 5735.25 of the 57578
Revised Code shall be credited as follows, ~~after the credits to~~ 57579
~~the tax refund fund, and after deduction of the cost of~~ 57580
~~administration of the motor fuel laws, and after the transfer~~ 57581
transfers to the waterways safety fund and motor fuel tax 57582
administration fund, and after receipt by the treasurer of state 57583
of certifications from the commissioners of the sinking fund 57584
certifying, as required by sections 5528.15 and 5528.35 of the 57585

Revised Code, there are sufficient moneys to the credit of the 57586
highway improvement bond retirement fund to meet in full all 57587
payments of interest, principal, and charges for the retirement of 57588
bonds and other obligations issued pursuant to Section 2g of 57589
Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 57590
of the Revised Code due and payable during the current calendar 57591
year, and that there are sufficient moneys to the credit of the 57592
highway obligations bond retirement fund to meet in full all 57593
payments of interest, principal, and charges for the retirement of 57594
highway obligations issued pursuant to Section 2i of Article VIII, 57595
Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised 57596
Code due and payable during the current calendar year: 57597

(A) Sixty-seven and one-half per cent to the highway 57598
operating fund for distribution pursuant to division (B)(2) of 57599
section 5735.27 of the Revised Code; 57600

(B) Seven and one-half per cent to the gasoline excise tax 57601
fund for distribution pursuant to division (A)(2) of such section; 57602

(C) Seven and one-half per cent to the gasoline excise tax 57603
fund for distribution pursuant to division (A)(4) of such section; 57604

(D) Seventeen and one-half per cent to the gasoline excise 57605
tax fund for distribution pursuant to division (A)(5) of such 57606
section. 57607

Sec. 5735.291. The treasurer of state shall place to the 57608
credit of the tax refund fund created by section 5703.052 of the 57609
Revised Code, out of receipts from the tax levied by section 57610
5735.29 of the Revised Code, amounts equal to the refunds 57611
certified by the tax commissioner pursuant to sections 5735.142 57612
and 5735.29 of the Revised Code. The refunds provided for by 57613
sections 5735.142 and 5735.29 of the Revised Code shall be paid 57614
from such fund. The treasurer of state shall then transfer the 57615
amount required by section 5735.051 of the Revised Code to the 57616

waterways safety fund and the amount required by section 5735.053 57617
of the Revised Code to the motor fuel tax administration fund. ~~The~~ 57618

The balance of taxes collected under section 5735.29 of the 57619
Revised Code after the credits to the tax refund fund, ~~and after~~ 57620
~~the transfer~~ transfers to the waterways safety fund and the motor 57621
fuel tax administration fund, and after receipt by the treasurer 57622
of state of certifications from the commissioners of the sinking 57623
fund certifying, as required by sections 5528.15 and 5528.35 of 57624
the Revised Code, that there are sufficient moneys to the credit 57625
of the highway improvement bond retirement fund created by section 57626
5528.12 of the Revised Code to meet in full all payments of 57627
interest, principal, and charges for the retirement of bonds and 57628
other obligations issued pursuant to Section 2g of Article VIII, 57629
Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised 57630
Code due and payable during the current calendar year, and that 57631
there are sufficient moneys to the credit of the highway 57632
obligations bond retirement fund created by section 5528.32 of the 57633
Revised Code to meet in full all payments of interest, principal, 57634
and charges for the retirement of highway obligations issued 57635
pursuant to Section 2i of Article VIII, Ohio Constitution, and 57636
sections 5528.30 and 5528.31 of the Revised Code due and payable 57637
during the current calendar year, shall be credited to the highway 57638
operating fund, which is hereby created in the state treasury and 57639
shall be used solely for the purposes enumerated in section 57640
5735.29 of the Revised Code. All investment earnings of the fund 57641
shall be credited to the fund. 57642

Sec. 5735.30. (A) For the purpose of providing funds to pay 57643
the state's share of the cost of constructing and reconstructing 57644
highways and eliminating railway grade crossings on the major 57645
thoroughfares of the state highway system and urban extensions 57646
thereof, to pay that portion of the construction cost of a highway 57647
project which a county, township, or municipal corporation 57648

normally would be required to pay, but which the director of 57649
transportation, pursuant to division (B) of section 5531.08 of the 57650
Revised Code, determines instead will be paid from moneys in the 57651
highway operating fund, to pay the interest, principal, and 57652
charges on bonds and other obligations issued pursuant to Section 57653
2g of Article VIII, Ohio Constitution, and sections 5528.10 and 57654
5528.11 of the Revised Code, to pay the interest, principal, and 57655
charges on highway obligations issued pursuant to Section 2i of 57656
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 57657
of the Revised Code, ~~and~~ to provide revenues for the purposes of 57658
sections 1547.71 to 1547.78 of the Revised Code, and to pay the 57659
expenses of the department of taxation incident to the 57660
administration of the motor fuel laws, a motor fuel excise tax is 57661
hereby imposed on all motor fuel dealers upon their receipt of 57662
motor fuel within the state, at the rate of one cent on each 57663
gallon so received, to be reported, computed, paid, collected, 57664
administered, enforced, refunded, and subject to the same 57665
exemptions and penalties as provided in this chapter of the 57666
Revised Code. 57667

The tax imposed by this section shall be in addition to the 57668
tax imposed by sections 5735.05, 5735.25, and 5735.29 of the 57669
Revised Code. 57670

(B) The treasurer of state shall place to the credit of the 57671
tax refund fund created by section 5703.052 of the Revised Code, 57672
out of receipts from the tax levied by this section, amounts equal 57673
to the refunds certified by the tax commissioner pursuant to this 57674
section. The refund provided for by ~~the first paragraph~~ division 57675
(A) of this section shall be paid from such fund. The treasurer 57676
shall then transfer the amount required by section 5735.051 of the 57677
Revised Code to the waterways safety fund and the amount required 57678
by section 5735.053 of the Revised Code to the motor fuel tax 57679
administration fund. The balance of taxes for which the liability 57680

has become fixed prior to July 1, 1955, under this section, after 57681
the credit to the tax refund fund, shall be credited to the 57682
highway operating fund. 57683

(C)(1) The moneys derived from the tax levied by this 57684
section, after ~~the credit to the tax refund fund and the waterways~~ 57685
~~safety fund as provided~~ and transfers required by division (B) of 57686
this section, shall, during each calendar year, be credited to the 57687
highway improvement bond retirement fund created by section 57688
5528.12 of the Revised Code, until the commissioners of the 57689
sinking fund certify to the treasurer of state, as required by 57690
section 5528.17 of the Revised Code, that there are sufficient 57691
moneys to the credit of the highway improvement bond retirement 57692
fund to meet in full all payments of interest, principal, and 57693
charges for the retirement of bonds and other obligations issued 57694
pursuant to Section 2g of Article VIII, Ohio Constitution, and 57695
sections 5528.10 and 5528.11 of the Revised Code due and payable 57696
during the current calendar year and during the next succeeding 57697
calendar year. From the date of the receipt of the certification 57698
required by section 5528.17 of the Revised Code by the treasurer 57699
of state until the thirty-first day of December of the calendar 57700
year in which such certification is made, all moneys received in 57701
the state treasury from the tax levied by this section, after the 57702
~~credit to the tax refund fund and the waterways safety fund as~~ 57703
~~provided~~ and transfers required by division (B) of this section, 57704
shall be credited to the highway obligations bond retirement fund 57705
created by section 5528.32 of the Revised Code, until the 57706
commissioners of the sinking fund certify to the treasurer of 57707
state, as required by section 5528.38 of the Revised Code, that 57708
there are sufficient moneys to the credit of the highway 57709
obligations bond retirement fund to meet in full all payments of 57710
interest, principal, and charges for the retirement of obligations 57711
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 57712
and sections 5528.30 and 5528.31 of the Revised Code due and 57713

payable during the current calendar year and during the next 57714
succeeding calendar year. ~~From~~ 57715

(2) From the date of the receipt of the certification 57716
required by section 5528.38 of the Revised Code by the treasurer 57717
of state until the thirty-first day of December of the calendar 57718
year in which such certification is made, all moneys received in 57719
the state treasury from the tax levied by this section, after the 57720
~~credit to the tax refund fund and the waterways safety fund as~~ 57721
~~provided and transfers required by division (B) of this section,~~ 57722
shall be credited to the highway operating fund, except as 57723
provided in ~~the next succeeding paragraph~~ division (C)(3) of this 57724
section. 57725

(3) From the date of the receipt by the treasurer of state of 57726
certifications from the commissioners of the sinking fund, as 57727
required by sections 5528.18 and 5528.39 of the Revised Code, 57728
certifying that the moneys to the credit of the highway 57729
improvement bond retirement fund are sufficient to meet in full 57730
all payments of interest, principal, and charges for the 57731
retirement of all bonds and other obligations which may be issued 57732
pursuant to Section 2g of Article VIII, Ohio Constitution, and 57733
sections 5528.10 and 5528.11 of the Revised Code, and to the 57734
credit of the highway obligations bond retirement fund are 57735
sufficient to meet in full all payments of interest, principal, 57736
and charges for the retirement of all obligations issued pursuant 57737
to Section 2i of Article VIII, Ohio Constitution, and sections 57738
5528.30 and 5528.31 of the Revised Code, the moneys derived from 57739
the tax levied by this section, after the ~~credit to the tax refund~~ 57740
~~fund and the waterways safety fund as provided and transfers~~ 57741
required by division (B) of this section, shall be credited to the 57742
highway operating fund. 57743

Sec. 5735.99. (A) Whoever violates division (F) of section 57744

5735.02, division (D) of section 5735.021, division (B) of section 57745
5735.063, division (B) of section 5735.064, or division (A)(2) of 57746
section 5735.20 of the Revised Code is guilty of a misdemeanor of 57747
the first degree. 57748

(B) Whoever violates division (E) of section 5735.06 of the 57749
Revised Code is guilty of a felony of the fourth degree. 57750

(C) Whoever violates section 5735.025 or division (A)(1) of 57751
section 5735.20 of the Revised Code is guilty of a misdemeanor of 57752
the first degree, if the tax owed or the fraudulent refund 57753
received is not greater than five hundred dollars. If the tax owed 57754
or the fraudulent refund received is greater than five hundred 57755
dollars but not greater than ten thousand dollars, the offender is 57756
guilty of a felony of the fourth degree; for each subsequent 57757
offense when the tax owed or the fraudulent refund received is 57758
greater than five hundred dollars but not greater than ten 57759
thousand dollars, the offender is guilty of a felony of the third 57760
degree. If the tax owed or the fraudulent refund received is 57761
greater than ten thousand dollars, the offender is guilty of a 57762
felony of the second degree. 57763

(D) Whoever violates a provision of this chapter for which a 57764
penalty is not otherwise prescribed under this section is guilty 57765
of a misdemeanor of the fourth degree. 57766

(E) Whoever violates division (D)(5) of section 5735.19 of 57767
the Revised Code is guilty of a misdemeanor of the first degree. 57768

Sec. 5739.01. As used in this chapter: 57769

(A) "Person" includes individuals, receivers, assignees, 57770
trustees in bankruptcy, estates, firms, partnerships, 57771
associations, joint-stock companies, joint ventures, clubs, 57772
societies, corporations, limited liability partnerships, limited 57773
liability companies, the state and its political subdivisions, and 57774

combinations of individuals of any form. 57775

(B) "Sale" and "selling" include all of the following 57776
transactions for a consideration in any manner, whether absolutely 57777
or conditionally, whether for a price or rental, in money or by 57778
exchange, and by any means whatsoever: 57779

(1) All transactions by which title or possession, or both, 57780
of tangible personal property, is or is to be transferred, or a 57781
license to use or consume tangible personal property is or is to 57782
be granted; 57783

(2) All transactions by which lodging by a hotel is or is to 57784
be furnished to transient guests; 57785

(3) All transactions by which: 57786

(a) An item of tangible personal property is or is to be 57787
repaired, except property, the purchase of which would not be 57788
subject to the tax imposed by section 5739.02 of the Revised Code; 57789

(b) An item of tangible personal property is or is to be 57790
installed, except property, the purchase of which would not be 57791
subject to the tax imposed by section 5739.02 of the Revised Code 57792
or property that is or is to be incorporated into and will become 57793
a part of a production, transmission, transportation, or 57794
distribution system for the delivery of a public utility service; 57795

(c) The service of washing, cleaning, waxing, polishing, or 57796
painting a motor vehicle is or is to be furnished; 57797

(d) ~~Industrial laundry~~ Laundry and dry cleaning services are 57798
or are to be provided; 57799

(e) Automatic data processing, computer services, or 57800
electronic information services are or are to be provided for use 57801
in business when the true object of the transaction is the receipt 57802
by the consumer of automatic data processing, computer services, 57803
or electronic information services rather than the receipt of 57804

personal or professional services to which automatic data 57805
processing, computer services, or electronic information services 57806
are incidental or supplemental. Notwithstanding any other 57807
provision of this chapter, such transactions that occur between 57808
members of an affiliated group are not sales. An "affiliated 57809
group" means two or more persons related in such a way that one 57810
person owns or controls the business operation of another member 57811
of the group. In the case of corporations with stock, one 57812
corporation owns or controls another if it owns more than fifty 57813
per cent of the other corporation's common stock with voting 57814
rights. 57815

(f) Telecommunications service, other than mobile 57816
telecommunications service after July 31, 2002, is or is to be 57817
provided that originates or terminates in this state and is 57818
charged in the records of the telecommunications service vendor to 57819
the consumer's telephone number or account in this state, or that 57820
both originates and terminates in this state; but does not include 57821
transactions by which telecommunications service is paid for by 57822
using a prepaid authorization number or prepaid telephone calling 57823
card, or by which local telecommunications service is obtained 57824
from a coin-operated telephone and paid for by using coin; 57825

(g) Landscaping and lawn care service is or is to be 57826
provided; 57827

(h) Private investigation and security service is or is to be 57828
provided; 57829

(i) Information services or tangible personal property is 57830
provided or ordered by means of a nine hundred telephone call; 57831

(j) Building maintenance and janitorial service is or is to 57832
be provided; 57833

(k) Employment service is or is to be provided; 57834

(l) Employment placement service is or is to be provided; 57835

- (m) Exterminating service is or is to be provided; 57836
- (n) Physical fitness facility service is or is to be provided; 57837
57838
- (o) Recreation and sports club service is or is to be provided; 57839
57840
- (p) After July 31, 2002, mobile telecommunications service is or is to be provided ~~in this state~~ when that service is situated to this state pursuant to the "Mobile Telecommunications Sourcing Act," ~~P.~~ Pub. L. No. 106-252, 114 Stat. 626 to 632 (2000), 4 U.S.C.A. 116 to 126, as amended; 57841
57842
57843
57844
57845
- (q) Cable and satellite television service is or is to be provided; 57846
57847
- (r) Personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by a physician, or the cutting, coloring, or styling of an individual's hair. 57848
57849
57850
57851
57852
57853
57854
- (s) Beginning July 1, 2003, the transportation of persons or property by a water transportation company, as defined in section 5727.01 of the Revised Code, is or is to be provided; 57855
57856
57857
- (t) The transportation of persons by motor vehicle or aircraft is or is to be provided, when the point of origin and the point of termination are both within this state, except for transportation provided by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102; 57858
57859
57860
57861
57862
57863
57864
- (u) Public relations or lobbying service is or is to be 57865

provided. As used in this division, "lobbying service" means the 57866
services performed by a legislative agent required to be 57867
registered under section 101.72 of the Revised Code, or an 57868
executive agency lobbyist required to be registered under section 57869
121.62 of the Revised Code. 57870

(v) Real estate service is or is to be provided. As used in 57871
this division, "real estate service" means all services related to 57872
the buying, selling, or management of real estate, including real 57873
estate brokerage, real property inspection or appraisal, title 57874
searching, and property management. "Real estate service" does not 57875
include mortgage lending, the provision of title insurance, or any 57876
service that constitutes the practice of law. As used in this 57877
division, "property management" means the service of managing 57878
commercial, industrial, or residential property to maintain its 57879
condition and value for the property owner, and includes showing 57880
property to potential renters, collecting rents, and providing 57881
similar services to generate revenue from the property for the 57882
owner. "Property management" does not include facility management, 57883
as defined in division (D)(3) of this section. 57884

(w) Debt collection service is or is to be provided. As used 57885
in this division, "debt collection" means the use of any 57886
instrumentality of interstate commerce or the mails in the 57887
business of collecting, directly or indirectly, any debts owed or 57888
due, or asserted to be owed or due, another. "Debt collection 57889
service" does not include any service that constitutes the 57890
practice of law. 57891

(x) Interior design service or exterior design service is or 57892
is to be provided. As used in this division, "interior design 57893
service" means providing aesthetic services associated with 57894
interior spaces, and includes the planning, designing, and 57895
administering of projects in interior spaces to meet the physical 57896
and aesthetic needs of individuals using them, taking into 57897

consideration building codes, health and safety regulations, 57898
traffic patterns and floor planning, mechanical and electrical 57899
needs, and interior fittings and furniture. As used in this 57900
division, "exterior design service" means providing aesthetic 57901
services associated with exterior spaces, and includes the 57902
planning, designing, and administering of projects involving land 57903
or buildings, to meet the physical and aesthetic needs of 57904
individuals using them. 57905

(4) All transactions by which printed, imprinted, 57906
overprinted, lithographic, multilithic, blueprinted, photostatic, 57907
or other productions or reproductions of written or graphic matter 57908
are or are to be furnished or transferred; 57909

(5) The production or fabrication of tangible personal 57910
property for a consideration for consumers who furnish either 57911
directly or indirectly the materials used in the production of 57912
fabrication work; and include the furnishing, preparing, or 57913
serving for a consideration of any tangible personal property 57914
consumed on the premises of the person furnishing, preparing, or 57915
serving such tangible personal property. Except as provided in 57916
section 5739.03 of the Revised Code, a construction contract 57917
pursuant to which tangible personal property is or is to be 57918
incorporated into a structure or improvement on and becoming a 57919
part of real property is not a sale of such tangible personal 57920
property. The construction contractor is the consumer of such 57921
tangible personal property, provided that the sale and 57922
installation of carpeting, the sale and installation of 57923
agricultural land tile, the sale and erection or installation of 57924
portable grain bins, or the provision of landscaping and lawn care 57925
service and the transfer of property as part of such service is 57926
never a construction contract. The transfer of copyrighted motion 57927
picture films for exhibition purposes is not a sale, except such 57928
films as are used solely for advertising purposes. ~~Other than as~~ 57929

~~provided in this section, "sale" and "selling" do not include 57930
transfers of interest in leased property where the original lessee 57931
and the terms of the original lease agreement remain unchanged, or 57932
professional, insurance, or personal service transactions that 57933
involve the transfer of tangible personal property as an 57934
inconsequential element, for which no separate charges are made. 57935~~

As used in division (B)(5) of this section: 57936

(a) "Agricultural land tile" means fired clay or concrete 57937
tile, or flexible or rigid perforated plastic pipe or tubing, 57938
incorporated or to be incorporated into a subsurface drainage 57939
system appurtenant to land used or to be used directly in 57940
production by farming, agriculture, horticulture, or floriculture. 57941
The term does not include such materials when they are or are to 57942
be incorporated into a drainage system appurtenant to a building 57943
or structure even if the building or structure is used or to be 57944
used in such production. 57945

(b) "Portable grain bin" means a structure that is used or to 57946
be used by a person engaged in farming or agriculture to shelter 57947
the person's grain and that is designed to be disassembled without 57948
significant damage to its component parts. 57949

(6) All transactions in which all of the shares of stock of a 57950
closely held corporation or all of the ownership interests in a 57951
limited liability company are transferred, if the corporation or 57952
limited liability company is not engaging in business and all or 57953
substantially all of its entire assets consist of boats, planes, 57954
motor vehicles, or other tangible personal property operated 57955
primarily for the use and enjoyment of the shareholders; 57956

(7) All transactions in which a warranty, maintenance or 57957
service contract, or similar agreement by which the vendor of the 57958
warranty, contract, or agreement agrees to repair or maintain the 57959
tangible personal property of the consumer is or is to be 57960

provided; 57961

(8) All transactions by which a prepaid authorization number 57962
or a prepaid telephone calling card is or is to be transferred; 57963

(9) All transactions by which a motor vehicle is or is to be 57964
parked, or by which license to park it, in a space, lot, or garage 57965
is or is to be provided; 57966

(10) All transactions by which tangible personal property is 57967
or is to be stored, except such property that the consumer of the 57968
storage holds for sale in the regular course of business; 57969

(11) All transactions by which admission is or is to be 57970
granted to a theater, auditorium, arena, stadium, or similar 57971
facility to view a motion picture or attend a professional 57972
sporting event, concert, theatrical production, circus, or other 57973
entertainment event where the athletes or performers receive 57974
compensation that qualifies as taxable income under the Internal 57975
Revenue Code for their performances; 57976

(12) All transactions by which admission to a zoo, amusement 57977
park, museum, or similar place of amusement is or is to be 57978
granted. 57979

Except as provided in this section, "sale" and "selling" do 57980
not include transfers of interest in leased property where the 57981
original lessee and the terms of the original lease agreement 57982
remain unchanged, or professional, insurance, or personal service 57983
transactions that involve the transfer of tangible personal 57984
property as an inconsequential element, for which no separate 57985
charges are made. 57986

(C) "Vendor" means the person providing the service or by 57987
whom the transfer effected or license given by a sale is or is to 57988
be made or given and, for sales described in division (B)(3)(i) of 57989
this section, the telecommunications service vendor that provides 57990
the nine hundred telephone service; if two or more persons are 57991

engaged in business at the same place of business under a single 57992
trade name in which all collections on account of sales by each 57993
are made, such persons shall constitute a single vendor. 57994

Physicians, dentists, hospitals, and veterinarians who are 57995
engaged in selling tangible personal property as received from 57996
others, such as eyeglasses, mouthwashes, dentifrices, or similar 57997
articles, are vendors. Veterinarians who are engaged in 57998
transferring to others for a consideration drugs, the dispensing 57999
of which does not require an order of a licensed veterinarian or 58000
physician under federal law, are vendors. 58001

(D)(1) "Consumer" means the person for whom the service is 58002
provided, to whom the transfer effected or license given by a sale 58003
is or is to be made or given, to whom the service described in 58004
division (B)(3)(f) or (i) of this section is charged, or to whom 58005
the admission is granted. 58006

(2) Physicians, dentists, hospitals, and blood banks operated 58007
by nonprofit institutions and persons licensed to practice 58008
veterinary medicine, surgery, and dentistry are consumers of all 58009
tangible personal property and services purchased by them in 58010
connection with the practice of medicine, dentistry, the rendition 58011
of hospital or blood bank service, or the practice of veterinary 58012
medicine, surgery, and dentistry. In addition to being consumers 58013
of drugs administered by them or by their assistants according to 58014
their direction, veterinarians also are consumers of drugs that 58015
under federal law may be dispensed only by or upon the order of a 58016
licensed veterinarian or physician, when transferred by them to 58017
others for a consideration to provide treatment to animals as 58018
directed by the veterinarian. 58019

(3) A person who performs a facility management, or similar 58020
service contract for a contractee is a consumer of all tangible 58021
personal property and services purchased for use in connection 58022
with the performance of such contract, regardless of whether title 58023

to any such property vests in the contractee. The purchase of such 58024
property and services is not subject to the exception for resale 58025
under division (E)(1) of this section. As used in this division, 58026
"facility management" means the management of the operations of a 58027
commercial, industrial, or governmental facility under a contract 58028
or subcontract with the owner of the facility or a contractor of 58029
the owner. 58030

(4)(a) In the case of a person who purchases printed matter 58031
for the purpose of distributing it or having it distributed to the 58032
public or to a designated segment of the public, free of charge, 58033
that person is the consumer of that printed matter, and the 58034
purchase of that printed matter for that purpose is a sale. 58035

(b) In the case of a person who produces, rather than 58036
purchases, printed matter for the purpose of distributing it or 58037
having it distributed to the public or to a designated segment of 58038
the public, free of charge, that person is the consumer of all 58039
tangible personal property and services purchased for use or 58040
consumption in the production of that printed matter. That person 58041
is not entitled to claim exception under division (E)~~(8)~~(7) of 58042
this section for any material incorporated into the printed matter 58043
or any equipment, supplies, or services primarily used to produce 58044
the printed matter. 58045

(c) The distribution of printed matter to the public or to a 58046
designated segment of the public, free of charge, is not a sale to 58047
the members of the public to whom the printed matter is 58048
distributed or to any persons who purchase space in the printed 58049
matter for advertising or other purposes. 58050

(5) A person who makes sales of any of the services listed in 58051
division (B)(3) of this section is the consumer of any tangible 58052
personal property used in performing the service. The purchase of 58053
that property is not subject to the resale exception under 58054
division (E)(1) of this section. 58055

(6)(a) As used in division (D)(6) of this section: 58056

(i) "Qualifying affiliated group member" means a person who 58057
is a member of an affiliated group, as described in division 58058
(B)(3)(e) of this section, or is a related member with respect to 58059
any other person or group of persons. 58060

(ii) "Another qualifying affiliated group member" means 58061
another person within the same qualifying affiliated group or 58062
another person who is a related member to the qualifying 58063
affiliated group member. 58064

(iii) "Related member" has the same meaning as in section 58065
5733.042 of the Revised Code. 58066

(b) A qualifying affiliated group member that purchases 58067
tangible personal property for sale, lease, or rental to another 58068
qualifying affiliated group member for any use by that other 58069
member, other than for resale, re-lease, or re-rental to an 58070
unrelated third party as determined under divisions (D)(6)(c)(i), 58071
(ii), and (iii) of this section, is the consumer of the property 58072
purchased for that sale, lease, or rental and is not entitled to 58073
claim an exception for resale under division (E)(1) of this 58074
section, with respect to that purchase. The consumer may claim any 58075
other exemption or exception that would be available to the 58076
qualifying affiliated group member to whom the property is sold, 58077
leased, or rented, as if that member had purchased, leased, or 58078
rented the property from an unrelated third party. 58079

(c)(i) The original purchase of tangible personal property by 58080
a qualifying affiliated group member and the sale of the property 58081
to another qualifying affiliated group member is a resale to an 58082
unrelated third party if, within ninety days of the original 58083
purchase of the property, the sale to the unrelated third party is 58084
effected and no qualifying affiliated group member directly or 58085
indirectly purchases, acquires, uses, or has possession of the 58086

property for the first seventy-five per cent of the depreciable 58087
life of the property for modified accelerated cost recovery system 58088
purposes under section 168 of the Internal Revenue Code. 58089

(ii) The original purchase of tangible personal property by a 58090
qualifying affiliated group member and the lease of the property 58091
to another qualifying affiliated group member is a re-lease to an 58092
unrelated third party, if the lease to the unrelated third party 58093
is effected within ninety days of the original purchase of the 58094
property by the first qualifying affiliated group member, and the 58095
lease to the unrelated third party provides or cumulatively 58096
provides for recovery of at least two-thirds of the original 58097
purchase price of the property within at least five years of the 58098
original purchase of the property by the first qualifying 58099
affiliated group member. 58100

(iii) The original purchase of tangible personal property by 58101
a qualifying affiliated group member and rental of the property to 58102
another qualifying affiliated group member is a re-rental to an 58103
unrelated third party, if the other qualifying affiliated group 58104
member places the property in an inventory for rental to an 58105
unrelated third party within ninety days of the original purchase 58106
of the property by the first qualifying affiliated group member, 58107
and the property remains in rental inventory for a period of not 58108
less than four years, during which time at least seventy-five per 58109
cent of the rental proceeds and days of rental use of the property 58110
are attributable to rentals to an unrelated third party. 58111

(d) As used in division (D)(6) of this section, "unrelated 58112
third party" does not include any officer or shareholder of a 58113
corporation, any member of a limited liability company, or any 58114
partner in a partnership where the corporation, limited liability 58115
company, or partnership is a qualifying affiliated group member of 58116
the group that includes the qualifying affiliated group member 58117
making the original purchase of the tangible personal property. 58118

(e) The tax commissioner may adopt rules to enforce and administer division (D)(6) of this section and prevent price manipulation. 58119
58120
58121

(7) A person conducting a food service operation as defined in section 3717.01 of the Revised Code who prepares food for human consumption primarily for immediate sale at retail is the consumer of tangible personal property and services used to serve the food so prepared, including chairs, tables, tableware, linens, and laundry cleaning services. The purchase of such property and services is not subject to the exception for resale under division (E)(1) of this section. 58122
58123
58124
58125
58126
58127
58128
58129

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is: 58130
58131

(1) To resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person; 58132
58133
58134

(2) To incorporate the thing transferred as a material or a part, into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining, or to use or consume the thing transferred directly in producing a product for sale by mining, including without limitation the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, farming, agriculture, horticulture, or floriculture, and persons engaged in rendering farming, agricultural, horticultural, or floricultural services, and services in the exploration for, and production of, crude oil and natural gas, for others are deemed engaged directly in farming, agriculture, horticulture, and floriculture, or exploration for, and production of, crude oil and natural gas; directly in the rendition of a public utility service, except that the sales tax levied by section 5739.02 of the Revised Code shall 58135
58136
58137
58138
58139
58140
58141
58142
58143
58144
58145
58146
58147
58148
58149

be collected upon all meals, drinks, and food for human 58150
consumption sold upon Pullman and railroad coaches. This paragraph 58151
does not exempt or except from "retail sale" or "sales at retail" 58152
the sale of tangible personal property that is to be incorporated 58153
into a structure or improvement to real property. 58154

(3) To hold the thing transferred as security for the 58155
performance of an obligation of the vendor; 58156

~~(4) To use or consume the thing transferred in the process of 58157
reclamation as required by Chapters 1513. and 1514. of the Revised 58158
Code; 58159~~

~~(5) To resell, hold, use, or consume the thing transferred as 58160
evidence of a contract of insurance; 58161~~

~~(6)~~(5) To use or consume the thing directly in commercial 58162
fishing; 58163

~~(7)~~(6) To incorporate the thing transferred as a material or 58164
a part into, or to use or consume the thing transferred directly 58165
in the production of, magazines distributed as controlled 58166
circulation publications; 58167

~~(8)~~(7) To use or consume the thing transferred in the 58168
production and preparation in suitable condition for market and 58169
sale of printed, imprinted, overprinted, lithographic, 58170
multilithic, blueprinted, photostatic, or other productions or 58171
reproductions of written or graphic matter; 58172

~~(9)~~(8) To use the thing transferred, as described in section 58173
5739.011 of the Revised Code, primarily in a manufacturing 58174
operation to produce tangible personal property for sale; 58175

~~(10)~~(9) To use the benefit of a warranty, maintenance or 58176
service contract, or similar agreement, as defined in division 58177
(B)(7) of this section, to repair or maintain tangible personal 58178
property, if all of the property that is the subject of the 58179

warranty, contract, or agreement would be exempt on its purchase 58180
from the tax imposed by section 5739.02 of the Revised Code; 58181

~~(11)~~(10) To use the thing transferred as qualified research 58182
and development equipment; 58183

~~(12)~~(11) To use or consume the thing transferred primarily in 58184
storing, transporting, mailing, or otherwise handling purchased 58185
sales inventory in a warehouse, distribution center, or similar 58186
facility when the inventory is primarily distributed outside this 58187
state to retail stores of the person who owns or controls the 58188
warehouse, distribution center, or similar facility, to retail 58189
stores of an affiliated group of which that person is a member, or 58190
by means of direct marketing. Division (E)~~(12)~~(11) of this section 58191
does not apply to motor vehicles registered for operation on the 58192
public highways. As used in this division ~~(E)(12) of this section~~, 58193
"affiliated group" has the same meaning as in division (B)(3)(e) 58194
of this section and "direct marketing" has the same meaning as in 58195
division (B)~~(36)~~(28) of section 5739.02 of the Revised Code. 58196

~~(13)~~(12) To use or consume the thing transferred to fulfill a 58197
contractual obligation incurred by a warrantor pursuant to a 58198
warranty provided as a part of the price of the tangible personal 58199
property sold or by a vendor of a warranty, maintenance or service 58200
contract, or similar agreement the provision of which is defined 58201
as a sale under division (B)(7) of this section; 58202

~~(14)~~(13) To use or consume the thing transferred in the 58203
production of a newspaper for distribution to the public; 58204

~~(15)~~(14) To use tangible personal property to perform a 58205
service listed in division (B)(3) of this section, if the property 58206
is or is to be permanently transferred to the consumer of the 58207
service as an integral part of the performance of the service. 58208

As used in division (E) of this section, "thing" includes all 58209
transactions included in divisions (B)(3)(a), (b), and (e) of this 58210

section. 58211

Sales conducted through a coin-operated device that activates 58212
vacuum equipment or equipment that dispenses water, whether or not 58213
in combination with soap or other cleaning agents or wax, to the 58214
consumer for the consumer's use on the premises in washing, 58215
cleaning, or waxing a motor vehicle, provided no other personal 58216
property or personal service is provided as part of the 58217
transaction, are not retail sales or sales at retail. 58218

(F) "Business" includes any activity engaged in by any person 58219
with the object of gain, benefit, or advantage, either direct or 58220
indirect. "Business" does not include the activity of a person in 58221
managing and investing the person's own funds. 58222

(G) "Engaging in business" means commencing, conducting, or 58223
continuing in business, and liquidating a business when the 58224
liquidator thereof holds itself out to the public as conducting 58225
such business. Making a casual sale is not engaging in business. 58226

(H)(1) "Price," except as provided in divisions (H)(2) and 58227
(3) of this section, means the aggregate value in money of 58228
anything paid or delivered, or promised to be paid or delivered, 58229
in the complete performance of a retail sale, without any 58230
deduction on account of the cost of the property sold, cost of 58231
materials used, labor or service cost, interest, discount paid or 58232
allowed after the sale is consummated, delivery charges, or any 58233
other expense. If the retail sale consists of the rental or lease 58234
of tangible personal property, "price" means the aggregate value 58235
in money of anything paid or delivered, or promised to be paid or 58236
delivered, in the complete performance of the rental or lease, 58237
without any deduction for tax, interest, labor or service charge, 58238
damage liability waiver, termination or damage charge, discount 58239
paid or allowed after the lease is consummated, delivery charges, 58240
or any other expense. Except as provided in division (H)(4) of 58241
this section, the sales tax shall be calculated and collected by 58242

the lessor on each payment made by the lessee. "Price" does not 58243
include the consideration received as a deposit refundable to the 58244
consumer upon return of a beverage container, the consideration 58245
received as a deposit on a carton or case that is used for such 58246
returnable containers, or the consideration received as a 58247
refundable security deposit for the use of tangible personal 58248
property to the extent that it actually is refunded, if the 58249
consideration for such refundable deposit is separately stated 58250
from the consideration received or to be received for the tangible 58251
personal property transferred in the retail sale. Such separation 58252
must appear in the sales agreement or on the initial invoice or 58253
initial billing rendered by the vendor to the consumer. "~~Price~~" 58254
~~also does not include delivery charges that are separately stated~~ 58255
~~on the initial invoice or initial billing rendered by the vendor.~~ 58256
Price is the amount received inclusive of the tax, provided the 58257
vendor establishes to the satisfaction of the tax commissioner 58258
that the tax was added to the price. When the price includes both 58259
a charge for tangible personal property and a charge for providing 58260
a service and the sale of the property and the charge for the 58261
service are separately taxable, or have a separately determinable 58262
tax status, the price shall be separately stated for each such 58263
charge so the tax can be correctly computed and charged. 58264

The tax collected by the vendor from the consumer under this 58265
chapter is not part of the price, but is a tax collection for the 58266
benefit of the state and of counties levying an additional sales 58267
tax pursuant to section 5739.021 or 5739.026 of the Revised Code 58268
and of transit authorities levying an additional sales tax 58269
pursuant to section 5739.023 of the Revised Code. Except for the 58270
discount authorized in section 5739.12 of the Revised Code and the 58271
effects of any rounding pursuant to section 5703.055 of the 58272
Revised Code, no person other than the state or such a county or 58273
transit authority shall derive any benefit from the collection or 58274
payment of such tax. 58275

As used in division (H)(1) of this section, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.

(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by one-half of the credit afforded the consumer by the dealer for the motor vehicle received in trade.

(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by one-half of the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade.

(4) In the case of the lease of any motor vehicle designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or the lease of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee primarily for business purposes, the sales tax shall be collected by the vendor at the time the lease is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee under the lease agreement. If the total amount of the consideration for the lease includes amounts that are not calculated at the time the lease is executed, the tax

shall be calculated and collected by the vendor at the time such 58308
amounts are billed to the lessee. In the case of an open-end 58309
lease, the sales tax shall be calculated by the vendor on the 58310
basis of the total amount to be paid during the initial fixed term 58311
of the lease, and then for each subsequent renewal period as it 58312
comes due. In the case of a lease with a renewal clause and a 58313
termination penalty or similar provision that applies if the 58314
renewal clause is not exercised, the tax shall be calculated and 58315
paid by the vendor on the basis of the entire length of the lease 58316
period, including any renewal period, until the termination 58317
penalty or similar provision no longer applies. 58318

(5) In the case of a transaction in which telecommunications 58319
service or mobile telecommunications service is sold in a bundled 58320
transaction with other distinct services for a single price that 58321
is not itemized, the entire price is subject to the taxes levied 58322
under sections 5739.02, 5739.021, 5739.023, and 5739.026 of the 58323
Revised Code, unless the vendor can reasonably identify the 58324
non-taxable portion from its books and records kept in the regular 58325
course of business. The vendor shall advise the consumer, either 58326
in a sales agreement or on the bill for the bundled service, of 58327
the base on which the tax is computed. The burden of proving any 58328
nontaxable charges is on the vendor. 58329

(6) As used in divisions (H)(3) and (4) of this section, 58330
"motor vehicle" has the same meaning as in section 4501.01 of the 58331
Revised Code, and "watercraft" includes an outdrive unit attached 58332
to the watercraft. 58333

(I) "Receipts" means the total amount of the prices of the 58334
sales of vendors, provided that cash discounts allowed and taken 58335
on sales at the time they are consummated are not included, minus 58336
any amount deducted as a bad debt pursuant to section 5739.121 of 58337
the Revised Code. "Receipts" does not include the sale price of 58338
property returned or services rejected by consumers when the full 58339

sale price and tax are refunded either in cash or by credit. 58340

(J) "Place of business" means any location at which a person 58341
engages in business. 58342

(K) "Premises" includes any real property or portion thereof 58343
upon which any person engages in selling tangible personal 58344
property at retail or making retail sales and also includes any 58345
real property or portion thereof designated for, or devoted to, 58346
use in conjunction with the business engaged in by such person. 58347

(L) "Casual sale" means a sale of an item of tangible 58348
personal property that was obtained by the person making the sale, 58349
through purchase or otherwise, for the person's own use and was 58350
previously subject to any state's taxing jurisdiction on its sale 58351
or use, and includes such items acquired for the seller's use that 58352
are sold by an auctioneer employed directly by the person for such 58353
purpose, provided the location of such sales is not the 58354
auctioneer's permanent place of business. As used in this 58355
division, "permanent place of business" includes any location 58356
where such auctioneer has conducted more than two auctions during 58357
the year. 58358

(M) "Hotel" means every establishment kept, used, maintained, 58359
advertised, or held out to the public to be a place where sleeping 58360
accommodations are offered to guests, in which five or more rooms 58361
are used for the accommodation of such guests, whether the rooms 58362
are in one or several structures. 58363

(N) "Transient guests" means persons occupying a room or 58364
rooms for sleeping accommodations for less than thirty consecutive 58365
days. 58366

(O) "Making retail sales" means the effecting of transactions 58367
wherein one party is obligated to pay the price and the other 58368
party is obligated to provide a service or to transfer title to or 58369
possession of the item sold. "Making retail sales" does not 58370

include the preliminary acts of promoting or soliciting the retail 58371
sales, other than the distribution of printed matter which 58372
displays or describes and prices the item offered for sale, nor 58373
does it include delivery of a predetermined quantity of tangible 58374
personal property or transportation of property or personnel to or 58375
from a place where a service is performed, regardless of whether 58376
the vendor is a delivery vendor. 58377

(P) "Used directly in the rendition of a public utility 58378
service" means that property ~~which~~ that is to be incorporated into 58379
and will become a part of the consumer's production, transmission, 58380
transportation, or distribution system and that retains its 58381
classification as tangible personal property after such 58382
incorporation; fuel or power used in the production, transmission, 58383
transportation, or distribution system; and tangible personal 58384
property used in the repair and maintenance of the production, 58385
transmission, transportation, or distribution system, including 58386
only such motor vehicles as are specially designed and equipped 58387
for such use. Tangible personal property and services used 58388
primarily in providing highway transportation for hire are not 58389
used directly in providing the rendition of a public utility 58390
service as defined in this division. Tangible personal property 58391
that is part of, an operating supply for, or a repair or 58392
replacement part for, an air or noise pollution control facility 58393
certified under section 5709.21 of the Revised Code is not used 58394
directly in the rendition of a public utility service. 58395

(Q) "Refining" means removing or separating a desirable 58396
product from raw or contaminated materials by distillation or 58397
physical, mechanical, or chemical processes. 58398

(R) "Assembly" and "assembling" mean attaching or fitting 58399
together parts to form a product, but do not include packaging a 58400
product. 58401

(S) "Manufacturing operation" means a process in which 58402

materials are changed, converted, or transformed into a different 58403
state or form from which they previously existed and includes 58404
refining materials, assembling parts, and preparing raw materials 58405
and parts by mixing, measuring, blending, or otherwise committing 58406
such materials or parts to the manufacturing process. 58407

"Manufacturing operation" does not include packaging; or the 58408
preparation or preservation of food for human consumption 58409
primarily for immediate sale at retail by a person conducting a 58410
food service operation, as defined in section 3717.01 of the 58411
Revised Code. 58412

(T) "Fiscal officer" means, with respect to a regional 58413
transit authority, the secretary-treasurer thereof, and with 58414
respect to a county that is a transit authority, the fiscal 58415
officer of the county transit board if one is appointed pursuant 58416
to section 306.03 of the Revised Code or the county auditor if the 58417
board of county commissioners operates the county transit system. 58418

(U) "Transit authority" means a regional transit authority 58419
created pursuant to section 306.31 of the Revised Code or a county 58420
in which a county transit system is created pursuant to section 58421
306.01 of the Revised Code. For the purposes of this chapter, a 58422
transit authority must extend to at least the entire area of a 58423
single county. A transit authority that includes territory in more 58424
than one county must include all the area of the most populous 58425
county that is a part of such transit authority. County population 58426
shall be measured by the most recent census taken by the United 58427
States census bureau. 58428

(V) "Legislative authority" means, with respect to a regional 58429
transit authority, the board of trustees thereof, and with respect 58430
to a county that is a transit authority, the board of county 58431
commissioners. 58432

(W) "Territory of the transit authority" means all of the 58433
area included within the territorial boundaries of a transit 58434

authority as they from time to time exist. Such territorial 58435
boundaries must at all times include all the area of a single 58436
county or all the area of the most populous county that is a part 58437
of such transit authority. County population shall be measured by 58438
the most recent census taken by the United States census bureau. 58439

(X) "Providing a service" means providing or furnishing 58440
anything described in division (B)(3) of this section for 58441
consideration. 58442

(Y)(1)(a) "Automatic data processing" means processing of 58443
others' data, including keypunching or similar data entry services 58444
together with verification thereof, or providing access to 58445
computer equipment for the purpose of processing data. 58446

(b) "Computer services" means providing services consisting 58447
of specifying computer hardware configurations and evaluating 58448
technical processing characteristics, computer programming, and 58449
training of computer programmers and operators, provided in 58450
conjunction with and to support the sale, lease, or operation of 58451
taxable computer equipment or systems. 58452

(c) "Electronic information services" means providing access 58453
to computer equipment by means of telecommunications equipment for 58454
the purpose of either of the following: 58455

(i) Examining or acquiring data stored in or accessible to 58456
the computer equipment; 58457

(ii) Placing data into the computer equipment to be retrieved 58458
by designated recipients with access to the computer equipment. 58459

(d) "Automatic data processing, computer services, or 58460
electronic information services" shall not include personal or 58461
professional services. 58462

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 58463
section, "personal and professional services" means all services 58464

other than automatic data processing, computer services, or	58465
electronic information services, including but not limited to:	58466
(a) Accounting and legal services such as advice on tax	58467
matters, asset management, budgetary matters, quality control,	58468
information security, and auditing and any other situation where	58469
the service provider receives data or information and studies,	58470
alters, analyzes, interprets, or adjusts such material;	58471
(b) Analyzing business policies and procedures;	58472
(c) Identifying management information needs;	58473
(d) Feasibility studies, including economic and technical	58474
analysis of existing or potential computer hardware or software	58475
needs and alternatives;	58476
(e) Designing policies, procedures, and custom software for	58477
collecting business information, and determining how data should	58478
be summarized, sequenced, formatted, processed, controlled, and	58479
reported so that it will be meaningful to management;	58480
(f) Developing policies and procedures that document how	58481
business events and transactions are to be authorized, executed,	58482
and controlled;	58483
(g) Testing of business procedures;	58484
(h) Training personnel in business procedure applications;	58485
(i) Providing credit information to users of such information	58486
by a consumer reporting agency, as defined in the "Fair Credit	58487
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or	58488
as hereafter amended, including but not limited to gathering,	58489
organizing, analyzing, recording, and furnishing such information	58490
by any oral, written, graphic, or electronic medium;	58491
(j) Providing debt collection services by any oral, written,	58492
graphic, or electronic means.	58493
The services listed in divisions (Y)(2)(a) to (j) of this	58494

section are not automatic data processing or computer services. 58495

(Z) "Highway transportation for hire" means the 58496
transportation of personal property belonging to others for 58497
consideration by any of the following: 58498

(1) The holder of a permit or certificate issued by this 58499
state or the United States authorizing the holder to engage in 58500
transportation of personal property belonging to others for 58501
consideration over or on highways, roadways, streets, or any 58502
similar public thoroughfare; 58503

(2) A person who engages in the transportation of personal 58504
property belonging to others for consideration over or on 58505
highways, roadways, streets, or any similar public thoroughfare 58506
but who could not have engaged in such transportation on December 58507
11, 1985, unless the person was the holder of a permit or 58508
certificate of the types described in division (Z)(1) of this 58509
section; 58510

(3) A person who leases a motor vehicle to and operates it 58511
for a person described by division (Z)(1) or (2) of this section. 58512

"Highway transportation for hire" does not include the 58513
transportation of tangible personal property belonging to members 58514
of an affiliated group, as described in division (B)(3)(e) of this 58515
section, by another member of the affiliated group, or the 58516
transporting for disposal of refuse, trash, waste, or scrap, in 58517
which the originator of the material being hauled retains no 58518
continuing legal rights or responsibilities for that material. 58519

(AA) "Telecommunications service" means the transmission of 58520
any interactive, two-way electromagnetic communications, including 58521
voice, image, data, and information, through the use of any medium 58522
such as wires, cables, microwaves, cellular radio, radio waves, 58523
light waves, or any combination of those or similar media. 58524
"Telecommunications service" includes message toll service, even 58525

though the vendor provides the message toll service by means of 58526
wide area transmission type service or private communications 58527
service purchased from another telecommunications service 58528
provider, ~~but~~ and other related fees and ancillary services, 58529
including universal service fees, detailed billing service, 58530
directory assistance, service initiation, voice mail service, and 58531
vertical services, such as caller ID and three-way calling. 58532
"Telecommunications service" does not include any of the 58533
following: 58534

(1) ~~Sales of incoming or outgoing wide area transmission~~ 58535
~~service or wide area transmission type service, including eight~~ 58536
~~hundred or eight hundred type service, to the person contracting~~ 58537
~~for the receipt of that service;~~ 58538

(2) ~~Sales of private communications service to the person~~ 58539
~~contracting for the receipt of that service that entitles the~~ 58540
~~purchaser to exclusive or priority use of a communications channel~~ 58541
~~or group of channels between exchanges;~~ 58542

(3) Sales of telecommunications service that are billed to 58543
persons prior to January 1, 2004, by telephone companies that are 58544
subject to the excise tax imposed by Chapter 5727. of the Revised 58545
Code; 58546

(4)(2) Sales of telecommunications service to a provider of 58547
telecommunications service or of mobile telecommunications 58548
service, including access services, for use in providing 58549
telecommunications service or mobile telecommunications service; 58550

(5)(3) Value-added nonvoice services in which computer 58551
processing applications are used to act on the form, content, 58552
code, or protocol of the information to be transmitted; 58553

(6)(4) Transmission of interactive video programming by a 58554
cable television system as defined in section 505.90 of the 58555
Revised Code; 58556

~~(7)(5)~~ After July 31, 2002, mobile telecommunications service. 58557
58558

(BB) "~~Industrial laundry~~ Laundry and dry cleaning services" means removing soil or dirt from ~~or supplying~~ towels, linens, ~~or~~ articles of clothing, ~~or other fabric items~~ that belong to others and ~~are used in a trade or business~~ supplying towels, linens, articles of clothing, or other fabric items. "Laundry and dry cleaning services" does not include the provision of self-service facilities for use by consumers to remove soil or dirt from towels, linens, articles of clothing, or other fabric items. 58559
58560
58561
58562
58563
58564
58565
58566

(CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them. 58567
58568
58569
58570
58571
58572
58573
58574
58575

(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar year. 58576
58577
58578
58579
58580
58581
58582
58583
58584
58585
58586

(EE) "Private investigation and security service" means the 58587

performance of any activity for which the provider of such service 58588
is required to be licensed pursuant to Chapter 4749. of the 58589
Revised Code, or would be required to be so licensed in performing 58590
such services in this state, and also includes the services of 58591
conducting polygraph examinations and of monitoring or overseeing 58592
the activities on or in, or the condition of, the consumer's home, 58593
business, or other facility by means of electronic or similar 58594
monitoring devices. "Private investigation and security service" 58595
does not include special duty services provided by off-duty police 58596
officers, deputy sheriffs, and other peace officers regularly 58597
employed by the state or a political subdivision. 58598

(FF) "Information services" means providing conversation, 58599
giving consultation or advice, playing or making a voice or other 58600
recording, making or keeping a record of the number of callers, 58601
and any other service provided to a consumer by means of a nine 58602
hundred telephone call, except when the nine hundred telephone 58603
call is the means by which the consumer makes a contribution to a 58604
recognized charity. 58605

(GG) "Research and development" means designing, creating, or 58606
formulating new or enhanced products, equipment, or manufacturing 58607
processes, and also means conducting scientific or technological 58608
inquiry and experimentation in the physical sciences with the goal 58609
of increasing scientific knowledge which may reveal the bases for 58610
new or enhanced products, equipment, or manufacturing processes. 58611

(HH) "Qualified research and development equipment" means 58612
capitalized tangible personal property, and leased personal 58613
property that would be capitalized if purchased, used by a person 58614
primarily to perform research and development. Tangible personal 58615
property primarily used in testing, as defined in division (A)(4) 58616
of section 5739.011 of the Revised Code, or used for recording or 58617
storing test results, is not qualified research and development 58618
equipment unless such property is primarily used by the consumer 58619

in testing the product, equipment, or manufacturing process being 58620
created, designed, or formulated by the consumer in the research 58621
and development activity or in recording or storing such test 58622
results. 58623

(II) "Building maintenance and janitorial service" means 58624
cleaning the interior or exterior of a building and any tangible 58625
personal property located therein or thereon, including any 58626
services incidental to such cleaning for which no separate charge 58627
is made. However, "building maintenance and janitorial service" 58628
does not include the providing of such service by a person who has 58629
less than five thousand dollars in sales of such service during 58630
the calendar year. 58631

(JJ) "Employment service" means providing or supplying 58632
personnel, on a temporary or long-term basis, to perform work or 58633
labor under the supervision or control of another, when the 58634
personnel so supplied receive their wages, salary, or other 58635
compensation from the provider of the service. "Employment 58636
service" does not include: 58637

(1) Acting as a contractor or subcontractor, where the 58638
personnel performing the work are not under the direct control of 58639
the purchaser. 58640

(2) Medical and health care services. 58641

(3) Supplying personnel to a purchaser pursuant to a contract 58642
of at least one year between the service provider and the 58643
purchaser that specifies that each employee covered under the 58644
contract is assigned to the purchaser on a permanent basis. 58645

(4) Transactions between members of an affiliated group, as 58646
defined in division (B)(3)(e) of this section. 58647

(KK) "Employment placement service" means locating or finding 58648
employment for a person or finding or locating an employee to fill 58649
an available position. 58650

(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.

(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.

(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food or food production, and includes but is not limited to cattle, sheep, goats, swine, and poultry. "Livestock" does not include invertebrates, fish, amphibians, reptiles, horses, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of

livestock, and includes feed storage or handling structures and 58682
structures for livestock waste handling. 58683

(QQ) "Horticulture" means the growing, cultivation, and 58684
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 58685
and nursery stock. As used in this division, "nursery stock" has 58686
the same meaning as in section 927.51 of the Revised Code. 58687

(RR) "Horticulture structure" means a building or structure 58688
used exclusively for the commercial growing, raising, or 58689
overwintering of horticultural products, and includes the area 58690
used for stocking, storing, and packing horticultural products 58691
when done in conjunction with the production of those products. 58692

(SS) "Newspaper" means an unbound publication bearing a title 58693
or name that is regularly published, at least as frequently as 58694
biweekly, and distributed from a fixed place of business to the 58695
public in a specific geographic area, and that contains a 58696
substantial amount of news matter of international, national, or 58697
local events of interest to the general public. 58698

~~(TT) "Professional racing team" means a person that employs 58699
at least twenty full time employees for the purpose of conducting 58700
a motor vehicle racing business for profit. The person must 58701
conduct the business with the purpose of racing one or more motor 58702
racing vehicles in at least ten competitive professional racing 58703
events each year that comprise all or part of a motor racing 58704
series sanctioned by one or more motor racing sanctioning 58705
organizations. A "motor racing vehicle" means a vehicle for which 58706
the chassis, engine, and parts are designed exclusively for motor 58707
racing, and does not include a stock or production model vehicle 58708
that may be modified for use in racing. For the purposes of this 58709
division:~~ 58710

~~(1) A "competitive professional racing event" is a motor 58711
vehicle racing event sanctioned by one or more motor racing 58712~~

~~sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.~~ 58713
58714
58715

~~(2) "Full-time employee" means an individual who is employed for consideration for thirty five or more hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.~~ 58716
58717
58718
58719

~~(UU)~~(1) "Prepaid authorization number" means a numeric or alphanumeric combination that represents a prepaid account that can be used by the account holder solely to obtain telecommunications service, and includes any renewals or increases in the prepaid account. 58720
58721
58722
58723
58724

(2) "Prepaid telephone calling card" means a tangible item that contains a prepaid authorization number that can be used solely to obtain telecommunications service, and includes any renewals or increases in the prepaid account. 58725
58726
58727
58728

~~(VV)~~(UU) "Lease" means any transfer for a consideration of the possession of and right to use, but not title to, tangible personal property for a fixed period of time greater than thirty days or for an open-ended period of time with a minimum fixed period of more than thirty days. 58729
58730
58731
58732
58733

~~(WW)~~(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling. 58734
58735
58736
58737
58738
58739
58740

~~(XX)~~(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code. 58741
58742

(XX) "Cable and satellite television service" means any 58743

transmission of video or other programming service to consumers 58744
with or without the use of wires, and includes all service and 58745
rental charges, premium channels or other special services, 58746
installation and repair service charges, and any other charges 58747
having any connection with the provision of the cable and 58748
satellite television service. 58749

Sec. 5739.011. (A) As used in this section: 58750

(1) "Manufacturer" means a person who is engaged in 58751
manufacturing, processing, assembling, or refining a product for 58752
sale. 58753

(2) "Manufacturing facility" means a single location where a 58754
manufacturing operation is conducted, including locations 58755
consisting of one or more buildings or structures in a contiguous 58756
area owned or controlled by the manufacturer. 58757

(3) "Materials handling" means the movement of the product 58758
being or to be manufactured, during which movement the product is 58759
not undergoing any substantial change or alteration in its state 58760
or form. 58761

(4) "Testing" means a process or procedure to identify the 58762
properties or assure the quality of a material or product. 58763

(5) "Completed product" means a manufactured item that is in 58764
the form and condition as it will be sold by the manufacturer. An 58765
item is completed when all processes that change or alter its 58766
state or form or enhance its value are finished, even though the 58767
item subsequently will be tested to ensure its quality or be 58768
packaged for storage or shipment. 58769

(6) "Continuous manufacturing operation" means the process in 58770
which raw materials or components are moved through the steps 58771
whereby manufacturing occurs. Materials handling of raw materials 58772
or parts from the point of receipt or preproduction storage or of 58773

a completed product, to or from storage, to or from packaging, or 58774
to the place from which the completed product will be shipped, is 58775
not a part of a continuous manufacturing operation. 58776

(B) For purposes of division (E)~~(9)~~(8) of section 5739.01 of 58777
the Revised Code, the "thing transferred" includes, but is not 58778
limited to, any of the following: 58779

(1) Production machinery and equipment that act upon the 58780
product or machinery and equipment that treat the materials or 58781
parts in preparation for the manufacturing operation; 58782

(2) Materials handling equipment that moves the product 58783
through a continuous manufacturing operation; equipment that 58784
temporarily stores the product during the manufacturing operation; 58785
or, excluding motor vehicles licensed to operate on public 58786
highways, equipment used in intraplant or interplant transfers of 58787
work in process where the plant or plants between which such 58788
transfers occur are manufacturing facilities operated by the same 58789
person; 58790

(3) Catalysts, solvents, water, acids, oil, and similar 58791
consumables that interact with the product and that are an 58792
integral part of the manufacturing operation; 58793

(4) Machinery, equipment, and other tangible personal 58794
property used during the manufacturing operation that control, 58795
physically support, produce power for, lubricate, or are otherwise 58796
necessary for the functioning of production machinery and 58797
equipment and the continuation of the manufacturing operation; 58798

(5) Machinery, equipment, fuel, power, material, parts, and 58799
other tangible personal property used to manufacture machinery, 58800
equipment, or other tangible personal property used in 58801
manufacturing a product for sale; 58802

(6) Machinery, equipment, and other tangible personal 58803
property used by a manufacturer to test raw materials, the product 58804

being manufactured, or the completed product;	58805
(7) Machinery and equipment used to handle or temporarily store scrap that is intended to be reused in the manufacturing operation at the same manufacturing facility;	58806 58807 58808
(8) Coke, gas, water, steam, and similar substances used in the manufacturing operation; machinery and equipment used for, and fuel consumed in, producing or extracting those substances; machinery, equipment, and other tangible personal property used to treat, filter, pump, or otherwise make the substance suitable for use in the manufacturing operation; and machinery and equipment used for, and fuel consumed in, producing electricity for use in the manufacturing operation;	58809 58810 58811 58812 58813 58814 58815 58816
(9) Machinery, equipment, and other tangible personal property used to transport or transmit electricity, coke, gas, water, steam, or similar substances used in the manufacturing operation from the point of generation, if produced by the manufacturer, or from the point where the substance enters the manufacturing facility, if purchased by the manufacturer, to the manufacturing operation;	58817 58818 58819 58820 58821 58822 58823
(10) Machinery, equipment, and other tangible personal property that treats, filters, cools, refines, or otherwise renders water, steam, acid, oil, solvents, or similar substances used in the manufacturing operation reusable, provided that the substances are intended for reuse and not for disposal, sale, or transportation from the manufacturing facility;	58824 58825 58826 58827 58828 58829
(11) Parts, components, and repair and installation services for items described in division (B) of this section.	58830 58831
(C) For purposes of division (E) (9) (8) of section 5739.01 of the Revised Code, the "thing transferred" does not include any of the following:	58832 58833 58834
(1) Tangible personal property used in administrative,	58835

personnel, security, inventory control, record-keeping, ordering, 58836
billing, or similar functions; 58837

(2) Tangible personal property used in storing raw materials 58838
or parts prior to the commencement of the manufacturing operation 58839
or used to handle or store a completed product, including storage 58840
that actively maintains a completed product in a marketable state 58841
or form; 58842

(3) Tangible personal property used to handle or store scrap 58843
or waste intended for disposal, sale, or other disposition, other 58844
than reuse in the manufacturing operation at the same 58845
manufacturing facility; 58846

(4) Tangible personal property that is or is to be 58847
incorporated into realty; 58848

(5) Machinery, equipment, and other tangible personal 58849
property used for ventilation, dust or gas collection, humidity or 58850
temperature regulation, or similar environmental control, except 58851
machinery, equipment, and other tangible personal property that 58852
totally regulates the environment in a special and limited area of 58853
the manufacturing facility where the regulation is essential for 58854
production to occur; 58855

(6) Tangible personal property used for the protection and 58856
safety of workers, unless the property is attached to or 58857
incorporated into machinery and equipment used in a continuous 58858
manufacturing operation; 58859

(7) Tangible personal property used to store fuel, water, 58860
solvents, acid, oil, or similar items consumed in the 58861
manufacturing operation; 58862

(8) Machinery, equipment, and other tangible personal 58863
property used to clean, repair, or maintain real or personal 58864
property in the manufacturing facility; 58865

(9) Motor vehicles registered for operation on public highways; 58866
58867

(10) Tangible personal property that is part of, an operating supply for, or a repair or replacement part for, an air or noise pollution control facility certified under section 5709.21 of the Revised Code. 58868
58869
58870
58871

(D) For purposes of division (E)~~(9)~~(8) of section 5739.01 of the Revised Code, if the "thing transferred" is a machine used by a manufacturer in both a taxable and an exempt manner, it shall be totally taxable or totally exempt from taxation based upon its quantified primary use. If the "things transferred" are fungibles, they shall be taxed based upon the proportion of the fungibles used in a taxable manner. 58872
58873
58874
58875
58876
58877
58878

Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state. 58879
58880
58881
58882
58883
58884
58885
58886
58887
58888

(A) The tax shall be collected pursuant to the schedules in section 5739.025 of the Revised Code. 58889
58890

The tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered. 58891
58892

In the case of a sale, the price of which consists in whole or in part of rentals for the use of the thing transferred, the tax, as regards those rentals, shall be measured by the 58893
58894
58895

installments of those rentals.	58896
In the case of a sale of a service defined under division (MM) or (NN) of section 5739.01 of the Revised Code, the price of which consists in whole or in part of a membership for the receipt of the benefit of the service, the tax applicable to the sale shall be measured by the installments thereof.	58897 58898 58899 58900 58901
(B) The tax does not apply to the following:	58902
(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;	58903 58904 58905 58906
(2) Sales of food for human consumption off the premises where sold;	58907 58908
(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;	58909 58910 58911
(4) Sales of newspapers and of magazine subscriptions and sales or transfers of magazines distributed as controlled circulation publications;	58912 58913 58914
(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;	58915 58916 58917 58918
(6) <u>(5)</u> Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under <u>division (A) of</u> section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax	58919 58920 58921 58922 58923 58924 58925

pursuant to division (A) of section 5735.14 of the Revised Code 58926
and shall cause the amount deducted to be paid into the general 58927
revenue fund of this state; 58928

~~(7)~~(6) Sales of natural gas by a natural gas company, of 58929
water by a water-works company, or of steam by a heating company, 58930
if in each case the thing sold is delivered to consumers through 58931
pipes or conduits, ~~and all sales of communications services by a~~ 58932
~~telephone or telegraph company,~~ all terms as defined in section 58933
5727.01 of the Revised Code; 58934

~~(8)~~(7) Casual sales by a person, or auctioneer employed 58935
directly by the person to conduct such sales, except as to such 58936
sales of motor vehicles, watercraft or outboard motors required to 58937
be titled under section 1548.06 of the Revised Code, watercraft 58938
documented with the United States coast guard, snowmobiles, and 58939
all-purpose vehicles as defined in section 4519.01 of the Revised 58940
Code; 58941

~~(9)~~(8) Sales of services or tangible personal property, other 58942
than motor vehicles, mobile homes, and manufactured homes, by 58943
churches, organizations exempt from taxation under section 58944
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 58945
organizations operated exclusively for charitable purposes as 58946
defined in division (B)~~(12)~~(11) of this section, provided that the 58947
number of days on which such tangible personal property or 58948
services, other than items never subject to the tax, are sold does 58949
not exceed six in any calendar year. If the number of days on 58950
which such sales are made exceeds six in any calendar year, the 58951
church or organization shall be considered to be engaged in 58952
business and all subsequent sales by it shall be subject to the 58953
tax. In counting the number of days, all sales by groups within a 58954
church or within an organization shall be considered to be sales 58955
of that church or organization, except that sales made by separate 58956
student clubs and other groups of students of a primary or 58957

secondary school, and sales made by a parent-teacher association, 58958
booster group, or similar organization that raises money to 58959
support or fund curricular or extracurricular activities of a 58960
primary or secondary school, shall not be considered to be sales 58961
of such school, and sales by each such club, group, association, 58962
or organization shall be counted separately for purposes of the 58963
six-day limitation. This division does not apply to sales by a 58964
noncommercial educational radio or television broadcasting 58965
station. 58966

~~(10)~~(9) Sales not within the taxing power of this state under 58967
the Constitution of the United States; 58968

~~(11)~~The (10) Except for transactions that are sales under 58969
divisions (B)(3)(s) and (t) of section 5739.01 of the Revised 58970
Code, the transportation of persons or property, unless the 58971
transportation is by a private investigation and security service; 58972

~~(12)~~(11) Sales of tangible personal property or services to 58973
churches, to organizations exempt from taxation under section 58974
501(c)(3) of the Internal Revenue Code of 1986, and to any other 58975
nonprofit organizations operated exclusively for charitable 58976
purposes in this state, no part of the net income of which inures 58977
to the benefit of any private shareholder or individual, and no 58978
substantial part of the activities of which consists of carrying 58979
on propaganda or otherwise attempting to influence legislation; 58980
sales to offices administering one or more homes for the aged or 58981
one or more hospital facilities exempt under section 140.08 of the 58982
Revised Code; and sales to organizations described in division (D) 58983
of section 5709.12 of the Revised Code. 58984

"Charitable purposes" means the relief of poverty; the 58985
improvement of health through the alleviation of illness, disease, 58986
or injury; the operation of an organization exclusively for the 58987
provision of professional, laundry, printing, and purchasing 58988
services to hospitals or charitable institutions; the operation of 58989

a home for the aged, as defined in section 5701.13 of the Revised Code; ~~the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station;~~ the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; ~~the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein;~~ ~~the production of performances in music, dramatics, and the arts;~~ or the promotion of education by an organization engaged in carrying on research in, or the dissemination of, scientific and technological knowledge and information primarily for the public.

Nothing in this division shall be deemed to exempt sales to any organization for use in the operation or carrying on of a trade or business, or sales to a home for the aged for use in the operation of independent living facilities as defined in division (A) of section 5709.12 of the Revised Code.

~~(13)~~(12) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or

improvement to real property that are accepted for ownership by 59022
this state or any of its political subdivisions, or by the United 59023
States government or any of its agencies at the time of completion 59024
of the structures or improvements; building and construction 59025
materials sold to construction contractors for incorporation into 59026
a horticulture structure or livestock structure for a person 59027
engaged in the business of horticulture or producing livestock; 59028
building materials and services sold to a construction contractor 59029
for incorporation into a house of public worship or religious 59030
education, or a building used exclusively for charitable purposes 59031
under a construction contract with an organization whose purpose 59032
is as described in division (B)~~(12)~~(11) of this section; building 59033
materials and services sold to a construction contractor for 59034
incorporation into a building under a construction contract with 59035
an organization exempt from taxation under section 501(c)(3) of 59036
the Internal Revenue Code of 1986 when the building is to be used 59037
exclusively for the organization's exempt purposes; building and 59038
construction materials sold for incorporation into the original 59039
construction of a sports facility under section 307.696 of the 59040
Revised Code; and building and construction materials and services 59041
sold to a construction contractor for incorporation into real 59042
property outside this state if such materials and services, when 59043
sold to a construction contractor in the state in which the real 59044
property is located for incorporation into real property in that 59045
state, would be exempt from a tax on sales levied by that state; 59046

~~(14) Sales of ships or vessels or rail rolling stock used or 59047
to be used principally in interstate or foreign commerce, and 59048
repairs, alterations, fuel, and lubricants for such ships or 59049
vessels or rail rolling stock; 59050~~

~~(15)~~(13) Sales to persons engaged in any of the activities 59051
mentioned in division (E)(2) or ~~(9)~~(8) of section 5739.01 of the 59052
Revised Code, to persons engaged in making retail sales, or to 59053

persons who purchase for sale from a manufacturer tangible 59054
personal property that was produced by the manufacturer in 59055
accordance with specific designs provided by the purchaser, of 59056
packages, including material, labels, and parts for packages, and 59057
of machinery, equipment, and material for use primarily in 59058
packaging tangible personal property produced for sale, including 59059
any machinery, equipment, and supplies used to make labels or 59060
packages, to prepare packages or products for labeling, or to 59061
label packages or products, by or on the order of the person doing 59062
the packaging, or sold at retail. "Packages" includes bags, 59063
baskets, cartons, crates, boxes, cans, bottles, bindings, 59064
wrappings, and other similar devices and containers, and 59065
"packaging" means placing therein. 59066

~~(16)~~(14) Sales of food to persons using food stamp benefits 59067
to purchase the food. As used in this division ~~(B)~~(16) ~~of this~~ 59068
~~section~~, "food" has the same meaning as in the "Food Stamp Act of 59069
1977," 91 Stat. 958, 7 U.S.C. 2012, as amended, and federal 59070
regulations adopted pursuant to that act. 59071

~~(17)~~(15) Sales to persons engaged in farming, agriculture, 59072
horticulture, or floriculture, of tangible personal property for 59073
use or consumption directly in the production by farming, 59074
agriculture, horticulture, or floriculture of other tangible 59075
personal property for use or consumption directly in the 59076
production of tangible personal property for sale by farming, 59077
agriculture, horticulture, or floriculture; or material and parts 59078
for incorporation into any such tangible personal property for use 59079
or consumption in production; and of tangible personal property 59080
for such use or consumption in the conditioning or holding of 59081
products produced by and for such use, consumption, or sale by 59082
persons engaged in farming, agriculture, horticulture, or 59083
floriculture, except where such property is incorporated into real 59084
property; 59085

~~(18)~~(16) Sales of drugs dispensed by a licensed pharmacist 59086
upon the order of a licensed health professional authorized to 59087
prescribe drugs to a human being, as the term "licensed health 59088
professional authorized to prescribe drugs" is defined in section 59089
4729.01 of the Revised Code; insulin as recognized in the official 59090
United States pharmacopoeia; urine and blood testing materials 59091
when used by diabetics or persons with hypoglycemia to test for 59092
glucose or acetone; hypodermic syringes and needles when used by 59093
diabetics for insulin injections; epoetin alfa when purchased for 59094
use in the treatment of persons with end-stage renal disease; 59095
hospital beds when purchased for use by persons with medical 59096
problems for medical purposes; and oxygen and oxygen-dispensing 59097
equipment when purchased for use by persons with medical problems 59098
for medical purposes; 59099

~~(19)~~(17)(a) Sales of artificial limbs or portion thereof, 59100
breast prostheses, and other prosthetic devices for humans; braces 59101
or other devices for supporting weakened or nonfunctioning parts 59102
of the human body; crutches or other devices to aid human 59103
perambulation; and items of tangible personal property used to 59104
supplement impaired functions of the human body such as 59105
respiration, hearing, or elimination; 59106

(b) Sales of wheelchairs; items incorporated into or used in 59107
conjunction with a motor vehicle for the purpose of transporting 59108
wheelchairs, other than transportation conducted in connection 59109
with the sale or delivery of wheelchairs; and items incorporated 59110
into or used in conjunction with a motor vehicle that are 59111
specifically designed to assist a person with a disability to 59112
access or operate the motor vehicle. As used in this division, 59113
"person with a disability" means any person who has lost the use 59114
of one or both legs or one or both arms, who is blind, deaf, or 59115
disabled to the extent that the person is unable to move about 59116
without the aid of crutches or a wheelchair, or whose mobility is 59117

restricted by a permanent cardiovascular, pulmonary, or other 59118
disabling condition. 59119

(c) No exemption under this division shall be allowed for 59120
nonprescription drugs, medicines, or remedies; items or devices 59121
used to supplement vision; items or devices whose function is 59122
solely or primarily cosmetic; or physical fitness equipment. This 59123
division does not apply to sales to a physician or medical 59124
facility for use in the treatment of a patient. 59125

~~(20) Sales of emergency and fire protection vehicles and 59126
equipment to nonprofit organizations for use solely in providing 59127
fire protection and emergency services, including trauma care and 59128
emergency medical services, for political subdivisions of the 59129
state; 59130~~

~~(21) Sales of tangible personal property manufactured in this 59131
state, if sold by the manufacturer in this state to a retailer for 59132
use in the retail business of the retailer outside of this state 59133
and if possession is taken from the manufacturer by the purchaser 59134
within this state for the sole purpose of immediately removing the 59135
same from this state in a vehicle owned by the purchaser; 59136~~

~~(22)~~(18) Sales of services provided by the state or any of 59137
its political subdivisions, agencies, instrumentalities, 59138
institutions, or authorities, or by governmental entities of the 59139
state or any of its political subdivisions, agencies, 59140
instrumentalities, institutions, or authorities; 59141

~~(23)~~(19) Sales of motor vehicles to nonresidents of this 59142
state upon the presentation of an affidavit executed in this state 59143
by the nonresident purchaser affirming that the purchaser is a 59144
nonresident of this state, that possession of the motor vehicle is 59145
taken in this state for the sole purpose of immediately removing 59146
it from this state, that the motor vehicle will be permanently 59147
titled and registered in another state, and that the motor vehicle 59148

will not be used in this state;	59149
(24) (20) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.	59150 59151 59152 59153 59154 59155 59156 59157 59158 59159 59160 59161 59162 59163 59164
(25)(a) Sales of water to a consumer for residential use, except the sale of bottled water, distilled water, mineral water, carbonated water, or ice;	59165 59166 59167
(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	59168 59169 59170 59171
(26) (21) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	59172 59173
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	59174 59175 59176 59177
(a) To prepare food for human consumption for sale;	59178
(b) To preserve food that has been or will be prepared for	59179

human consumption for sale by the food service operator, not	59180
including tangible personal property used to display food for	59181
selection by the consumer;	59182
(c) To clean tangible personal property used to prepare or	59183
serve food for human consumption for sale.	59184
(28) Sales of animals by nonprofit animal adoption services	59185
or county humane societies;	59186
(29) <u>(22)</u> Sales of services to a corporation described in	59187
division (A) of section 5709.72 of the Revised Code, and sales of	59188
tangible personal property that qualifies for exemption from	59189
taxation under section 5709.72 of the Revised Code;	59190
(30) <u>(23)</u> Sales and installation of agricultural land tile, as	59191
defined in division (B)(5)(a) of section 5739.01 of the Revised	59192
Code;	59193
(31) <u>(24)</u> Sales and erection or installation of portable grain	59194
bins, as defined in division (B)(5)(b) of section 5739.01 of the	59195
Revised Code;	59196
(32) <u>(25)</u> The sale, lease, repair, and maintenance of, parts	59197
for, or items attached to or incorporated in, <u>licensed</u> motor	59198
vehicles that are primarily used <u>on highways, roadways, streets,</u>	59199
<u>or any similar public thoroughfares</u> for transporting tangible	59200
personal property by a person engaged in highway transportation	59201
for hire;	59202
(33) Sales to the state headquarters of any veterans'	59203
organization in this state that is either incorporated and issued	59204
a charter by the congress of the United States or is recognized by	59205
the United States veterans administration, for use by the	59206
headquarters;	59207
(34) <u>(26)</u> Sales to a telecommunications service, <u>cable and</u>	59208
<u>satellite television service, or mobile telecommunications service</u>	59209

vendor of tangible personal property and services used directly 59210
and primarily in transmitting, receiving, switching, or recording 59211
any interactive, one- or two-way electromagnetic communications, 59212
including voice, image, data, and information, through the use of 59213
any medium, including, but not limited to, poles, wires, cables, 59214
switching equipment, computers, and record storage devices and 59215
media, and component parts for the tangible personal property. An 59216
exemption under this division cannot be claimed on any tangible 59217
personal property that is part of, an operating supply for, or a 59218
repair or replacement part for, an air or noise pollution control 59219
facility certified under section 5709.21 of the Revised Code. The 59220
exemption provided in this division ~~(B)(34) of this section~~ shall 59221
be in lieu of all other exceptions under division (E)(2) of 59222
section 5739.01 of the Revised Code to which ~~a telecommunications~~ 59223
~~service~~ the vendor may otherwise be entitled, based upon the use 59224
of the thing purchased in providing the telecommunications 59225
service, cable and satellite television service, and mobile 59226
telecommunications service. 59227

~~(35)~~(27) Sales of investment metal bullion and investment 59228
coins. "Investment metal bullion" means any elementary precious 59229
metal that has been put through a process of smelting or refining, 59230
including, but not limited to, gold, silver, platinum, and 59231
palladium, and which is in such state or condition that its value 59232
depends upon its content and not upon its form. "Investment metal 59233
bullion" does not include fabricated precious metal that has been 59234
processed or manufactured for one or more specific and customary 59235
industrial, professional, or artistic uses. "Investment coins" 59236
means numismatic coins or other forms of money and legal tender 59237
manufactured of gold, silver, platinum, palladium, or other metal 59238
under the laws of the United States or any foreign nation with a 59239
fair market value greater than any statutory or nominal value of 59240
such coins. 59241

~~(36)~~(28)(a) Sales where the purpose of the consumer is to use 59242
or consume the things transferred in making retail sales and 59243
consisting of newspaper inserts, catalogues, coupons, flyers, gift 59244
certificates, or other advertising material that prices and 59245
describes tangible personal property offered for retail sale. 59246

(b) Sales to direct marketing vendors of preliminary 59247
materials such as photographs, artwork, and typesetting that will 59248
be used in printing advertising material; of printed matter that 59249
offers free merchandise or chances to win sweepstake prizes and 59250
that is mailed to potential customers with advertising material 59251
described in division (B)~~(36)~~(28)(a) of this section; and of 59252
equipment such as telephones, computers, facsimile machines, and 59253
similar tangible personal property primarily used to accept orders 59254
for direct marketing retail sales. 59255

(c) Sales of automatic food vending machines that preserve 59256
food with a shelf life of forty-five days or less by refrigeration 59257
and dispense it to the consumer. 59258

For purposes of division (B)~~(36)~~(28) of this section, "direct 59259
marketing" means the method of selling where consumers order 59260
tangible personal property by United States mail, delivery 59261
service, or telecommunication and the vendor delivers or ships the 59262
tangible personal property sold to the consumer from a warehouse, 59263
catalogue distribution center, or similar fulfillment facility by 59264
means of the United States mail, delivery service, or common 59265
carrier. 59266

~~(37)~~(29) Sales to a person engaged in the business of 59267
horticulture or producing livestock of materials to be 59268
incorporated into a horticulture structure or livestock structure; 59269

~~(38) The sale of a motor vehicle that is used exclusively for 59270
a vanpool ridesharing arrangement to persons participating in the 59271
vanpool ridesharing arrangement when the vendor is selling the 59272~~

vehicle pursuant to a contract between the vendor and the	59273
department of transportation;	59274
(39) <u>(30)</u> Sales of personal computers, computer monitors,	59275
computer keyboards, modems, and other peripheral computer	59276
equipment to an individual who is licensed or certified to teach	59277
in an elementary or a secondary school in this state for use by	59278
that individual in preparation for teaching elementary or	59279
secondary school students;	59280
(40) Sales to a professional racing team of any of the	59281
following;	59282
(a) Motor racing vehicles;	59283
(b) Repair services for motor racing vehicles;	59284
(c) Items of property that are attached to or incorporated in	59285
motor racing vehicles, including engines, chassis, and all other	59286
components of the vehicles, and all spare, replacement, and	59287
rebuilt parts or components of the vehicles; except not including	59288
tires, consumable fluids, paint, and accessories consisting of	59289
instrumentation sensors and related items added to the vehicle to	59290
collect and transmit data by means of telemetry and other forms of	59291
communication.	59292
(41) <u>(31)</u> Sales of used manufactured homes and used mobile	59293
homes, as defined in section 5739.0210 of the Revised Code, made	59294
on or after January 1, 2000;	59295
(42) <u>(32)</u> Sales of tangible personal property and services to	59296
a provider of electricity used or consumed directly and primarily	59297
in generating, transmitting, or distributing electricity for use	59298
by others, including property that is or is to be incorporated	59299
into and will become a part of the consumer's production,	59300
transmission, or distribution system and that retains its	59301
classification as tangible personal property after incorporation;	59302
fuel or power used in the production, transmission, or	59303

distribution of electricity; and tangible personal property and 59304
services used in the repair and maintenance of the production, 59305
transmission, or distribution system, including only those motor 59306
vehicles as are specially designed and equipped for such use. 59307
Tangible personal property that is part of, an operating supply 59308
for, or a repair or replacement part for, an air or noise 59309
pollution control facility certified under section 5709.21 of the 59310
Revised Code is not used or consumed directly and primarily in 59311
generating, transmitting, or distributing electricity. The 59312
exemption provided in this division shall be in lieu of all other 59313
exceptions in division (E)(2) of section 5739.01 of the Revised 59314
Code to which a provider of electricity may otherwise be entitled 59315
based on the use of the tangible personal property or service 59316
purchased in generating, transmitting, or distributing 59317
electricity. 59318

(33) Sales to a person providing services under divisions 59319
(B)(3)(s) and (t) of section 5739.01 of the Revised Code of 59320
tangible personal property and services used directly and 59321
primarily in providing taxable services under that section. An 59322
exemption under this division cannot be claimed on any tangible 59323
personal property that is part of, an operating supply for, or a 59324
repair or replacement part for, an air or noise pollution control 59325
facility certified under section 5709.21 of the Revised Code; 59326

(34) Sales of telecommunications service that is used 59327
directly and primarily to perform the functions of a call center. 59328
As used in this division, "call center" means any physical 59329
location where telephone calls are placed or received in high 59330
volume for the purpose of making sales, marketing, customer 59331
service, technical support, or other specialized business 59332
activity, and that employs at least fifty individuals that engage 59333
in call center activities on a full-time basis, or sufficient 59334
individuals to fill fifty full-time equivalent positions. "Call 59335

center" does not include any location where telephone calls are 59336
primarily placed to or received from the same person, or 59337
affiliates of the same person, that owns or operates the location. 59338

For the purpose of the proper administration of this chapter, 59339
and to prevent the evasion of the tax, it is presumed that all 59340
sales made in this state are subject to the tax until the contrary 59341
is established. 59342

As used in this section, except in division (B)~~(16)~~(14) of 59343
this section, "food" includes cereals and cereal products, milk 59344
and milk products including ice cream, meat and meat products, 59345
fish and fish products, eggs and egg products, vegetables and 59346
vegetable products, fruits, fruit products, and pure fruit juices, 59347
condiments, sugar and sugar products, coffee and coffee 59348
substitutes, tea, and cocoa and cocoa products. It does not 59349
include: spirituous liquors, wine, mixed beverages, or beer; soft 59350
drinks; sodas and beverages that are ordinarily dispensed at or in 59351
connection with bars and soda fountains, other than coffee, tea, 59352
and cocoa; root beer and root beer extracts; malt and malt 59353
extracts; mineral oils, cod liver oils, and halibut liver oil; 59354
medicines, including tonics, vitamin preparations, and other 59355
products sold primarily for their medicinal properties; and water, 59356
including mineral, bottled, and carbonated waters, and ice. 59357

(C) The levy of this tax on retail sales of recreation and 59358
sports club service shall not prevent a municipal corporation from 59359
levying any tax on recreation and sports club dues or on any 59360
income generated by recreation and sports club dues. 59361

Sec. 5739.03. Except as provided in section 5739.05 of the 59362
Revised Code, the tax imposed by or pursuant to section 5739.02, 59363
5739.021, 5739.023, or 5739.026 of the Revised Code shall be paid 59364
by the consumer to the vendor, and each vendor shall collect from 59365
the consumer, as a trustee for the state of Ohio, the full and 59366

exact amount of the tax payable on each taxable sale, in the 59367
manner and at the times provided as follows: 59368

(A) If the price is, at or prior to the provision of the 59369
service or the delivery of possession of the thing sold to the 59370
consumer, paid in currency passed from hand to hand by the 59371
consumer or the consumer's agent to the vendor or the vendor's 59372
agent, the vendor or the vendor's agent shall collect the tax with 59373
and at the same time as the price; 59374

(B) If the price is otherwise paid or to be paid, the vendor 59375
or the vendor's agent shall, at or prior to the provision of the 59376
service or the delivery of possession of the thing sold to the 59377
consumer, charge the tax imposed by or pursuant to section 59378
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to 59379
the account of the consumer, which amount shall be collected by 59380
the vendor from the consumer in addition to the price. Such sale 59381
shall be reported on and the amount of the tax applicable thereto 59382
shall be remitted with the return for the period in which the sale 59383
is made, and the amount of the tax shall become a legal charge in 59384
favor of the vendor and against the consumer. 59385

If any sale is claimed to be exempt under division (E) of 59386
section 5739.01 of the Revised Code or under section 5739.02 of 59387
the Revised Code, with the exception of divisions (B)(1) to ~~(11)~~ 59388
~~or (28)~~(10) of section 5739.02 of the Revised Code, the consumer 59389
must furnish to the vendor, and the vendor must obtain from the 59390
consumer, a certificate specifying the reason that the sale is not 59391
legally subject to the tax. If the transaction is claimed to be 59392
exempt under division (B)~~(13)~~(12) of section 5739.02 of the 59393
Revised Code, the exemption certificate shall be signed by both 59394
the contractor and the contractee and such contractee shall be 59395
deemed to be the consumer of all items purchased under such claim 59396
of exemption in the event it is subsequently determined that the 59397
exemption is not properly claimed. The certificate shall be in 59398

such form as the tax commissioner by regulation prescribes. If no 59399
certificate is furnished or obtained within the period for filing 59400
the return for the period in which such sale is consummated, it 59401
shall be presumed that the tax applies. ~~The~~ Failure to have so 59402
furnished, or to have so obtained, a certificate shall not prevent 59403
a vendor or consumer from establishing that the sale is not 59404
~~subject~~ subject to the tax within ~~sixty~~ one hundred twenty days of 59405
the giving of notice by the commissioner of intention to levy an 59406
~~assessment~~ assessment, in which event the tax shall not apply. 59407

Certificates need not be obtained nor furnished where the 59408
identity of the consumer is such that the transaction is never 59409
subject to the tax imposed or where the item of tangible personal 59410
property sold or the service provided is never subject to the tax 59411
imposed, regardless of use, or when the sale is in interstate 59412
commerce. 59413

(C) As used in this division, "contractee" means a person who 59414
seeks to enter or enters into a contract or agreement with a 59415
contractor or vendor for the construction of real property or for 59416
the sale and installation onto real property of tangible personal 59417
property. 59418

Any contractor or vendor may request from any contractee a 59419
certification of what portion of the property to be transferred 59420
under such contract or agreement is to be incorporated into the 59421
realty and what portion will retain its status as tangible 59422
personal property after installation is completed. The contractor 59423
or vendor shall request the certification by certified mail 59424
delivered to the contractee, return receipt requested. Upon 59425
receipt of such request and prior to entering into the contract or 59426
agreement, the contractee shall furnish to the contractor or 59427
vendor a certification sufficiently detailed to enable the 59428
contractor or vendor to ascertain the resulting classification of 59429
all materials purchased or fabricated by the contractor or vendor 59430

and transferred to the contractee. This requirement applies to a 59431
contractee regardless of whether the contractee holds a direct 59432
payment permit under section 5739.031 of the Revised Code or 59433
furnishes to the contractor or vendor an exemption certificate as 59434
provided under this section. 59435

For the purposes of the taxes levied by this chapter and 59436
Chapter 5741. of the Revised Code, the contractor or vendor may in 59437
good faith rely on the contractee's certification. Notwithstanding 59438
division (B) of section 5739.01 of the Revised Code, if the tax 59439
commissioner determines that certain property certified by the 59440
contractee as tangible personal property pursuant to this division 59441
is, in fact, real property, the contractee shall be considered to 59442
be the consumer of all materials so incorporated into that real 59443
property and shall be liable for the applicable tax, and the 59444
contractor or vendor shall be excused from any liability on those 59445
materials. 59446

If a contractee fails to provide such certification upon the 59447
request of the contractor or vendor, the contractor or vendor 59448
shall comply with the provisions of this chapter and Chapter 5741. 59449
of the Revised Code without the certification. If the tax 59450
commissioner determines that such compliance has been performed in 59451
good faith and that certain property treated as tangible personal 59452
property by the contractor or vendor is, in fact, real property, 59453
the contractee shall be considered to be the consumer of all 59454
materials so incorporated into that real property and shall be 59455
liable for the applicable tax and the construction contractor or 59456
vendor shall be excused from any liability on those materials. 59457

This division does not apply to any contract or agreement 59458
where the tax commissioner determines as a fact that a 59459
certification under this division was made solely on the decision 59460
or advice of the contractor or vendor. 59461

(D) Notwithstanding division (B) of section 5739.01 of the 59462

Revised Code, whenever the total rate of tax imposed under this 59463
chapter is increased after the date after a construction contract 59464
is entered into, the contractee shall reimburse the construction 59465
contractor for any additional tax paid on tangible property 59466
consumed or services received pursuant to the contract. 59467

(E) A vendor who files a petition for reassessment contesting 59468
the assessment of tax on sales for which the vendor obtained no 59469
valid exemption certificates and for which the vendor failed to 59470
establish that the sales were properly not subject to the tax 59471
during the one-hundred-twenty-day period allowed under division 59472
(B) of this section, may present to the tax commissioner 59473
additional evidence to prove that the sales were properly subject 59474
to a claim of exception or exemption. The vendor shall file such 59475
evidence within ninety days of the receipt by the vendor of the 59476
notice of assessment, except that, upon application and for 59477
reasonable cause, the period for submitting such evidence shall be 59478
extended thirty days. 59479

The commissioner shall consider such additional evidence in 59480
reaching the final determination on the assessment and petition 59481
for reassessment. 59482

(F) Whenever a vendor refunds to the consumer the full price 59483
of an item of tangible personal property on which the tax imposed 59484
under this chapter has been paid, the vendor shall also refund the 59485
full amount of the tax paid. 59486

Sec. 5739.071. (A) The tax commissioner shall refund to a 59487
provider that makes sales of electronic information services 59488
twenty-five per cent of the tax it pays pursuant to this chapter 59489
or Chapter 5741. of the Revised Code on purchases ~~made on or after~~ 59490
~~July 1, 1993,~~ of computers, computer peripherals, software, 59491
telecommunications equipment, and similar tangible personal 59492
property, primarily used to acquire, process, or store information 59493

for use by business customers or to transmit or disseminate such 59494
information to such customers, the services of installing or 59495
repairing such property, and agreements to repair or maintain such 59496
property. Business customers do not include members of an 59497
affiliated group, as described in division (B)(3)(e) of section 59498
5739.01 of the Revised Code, of which the electronic information 59499
service provider is also a member. Applications for a refund shall 59500
be made in the same manner and subject to the same time 59501
limitations as provided in sections 5739.07 and 5741.10 of the 59502
Revised Code. 59503

(B) An electronic information service provider that maintains 59504
direct payment authority under section 5739.031 of the Revised 59505
Code may list on the return and pay tax on seventy-five per cent 59506
of the price of equipment, services, and agreements described 59507
under division (A) of this section, in lieu of seeking a refund as 59508
provided in that division. 59509

Sec. 5739.12. ~~Each~~ (A) Except as provided in division (B) of 59510
this section, each person who has or is required to have a 59511
vendor's license, on or before the twenty-third day of each month, 59512
shall make and file a return for the preceding month, ~~on forms in~~ 59513
an electronic format prescribed by the tax commissioner, and shall 59514
pay electronically, in the manner specified by the commissioner, 59515
the tax shown on the return to be due. ~~The~~ Nothing in this 59516
division shall be construed as affecting section 5739.122 of the 59517
Revised Code, and that section takes precedence over this section. 59518

(B) Unless the commissioner adopts rules under section 59519
5703.054 of the Revised Code that require vendors to file returns 59520
in an electronic format or make payments electronically, a vendor, 59521
on or before the tenth day of each month, shall file a return for 59522
the preceding month on paper forms prescribed by the tax 59523
commissioner and shall pay the tax shown on the return to be due. 59524

(C)(1) The return shall show the amount of tax due from the vendor to the state for the period covered by the return and such other information as the commissioner deems necessary for the proper administration of this chapter. The commissioner may extend the time for making and filing returns and paying the tax, ~~and may require that the return for the last month of any annual or semiannual period, as determined by the commissioner, be a reconciliation return detailing the vendor's sales activity for the preceding annual or semiannual period. The reconciliation return shall be filed by the last day of the month following the last month of the annual or semiannual period.~~ The commissioner may remit all or any part of amounts or penalties ~~which~~ that may become due under this chapter, and may adopt rules relating thereto. ~~Such~~

(2) A paper return filed under division (B) of this section shall be filed by mailing it to the tax commissioner, together with payment of the amount of tax shown to be due thereon after deduction of any discount provided for under this section. Remittance shall be made payable to the treasurer of state. The paper return shall be considered filed when received by the tax commissioner, and ~~the~~ payment shall be considered made when received by the ~~tax~~ commissioner or when credited to an account designated by the treasurer of state or the tax commissioner. ~~If~~

(3) A return filed in an electronic format under division (A) of this section is considered filed when transmitted, as prescribed by the commissioner. A payment made electronically under division (A) of this section is considered made when the payment is received by the treasurer of state or credited to an account designated by the treasurer of state for the receipt of tax payments.

(D)(1) If the return is filed and the amount of tax shown thereon to be due is paid on or before the date such return is

required to be filed, the vendor shall be entitled to a the 59557
following discount ~~of three fourths of one per cent of the amount~~ 59558
~~shown to be due on the return. Amounts:~~ 59559

(a) A vendor that is required to remit sales taxes by 59560
electronic funds transfer under section 5739.122 of the Revised 59561
Code is entitled to a discount of one-half of one per cent of the 59562
amount shown on the return to be due. 59563

(b) A vendor that is not required to remit sales taxes by 59564
electronic funds transfer under section 5739.122 of the Revised 59565
Code is entitled to a discount of one per cent of the amount shown 59566
on the return to be due. 59567

(2) Notwithstanding division (D)(1) of this section, amounts 59568
paid to the clerk of courts pursuant to section 1548.06 or 4505.06 59569
of the Revised Code shall be subject to ~~the three fourths of one~~ 59570
~~per cent~~ a discount of one-half of one per cent. The discount 59571
shall be in consideration for prompt payment to the clerk of 59572
courts and for other services performed by the vendor in the 59573
collection of the tax. 59574

(E) Upon application to the commissioner, a vendor who is 59575
required to file monthly returns may be relieved of the 59576
requirement to report and pay the actual tax due, provided that 59577
the vendor agrees to remit to the tax commissioner payment of not 59578
less than an amount determined by the commissioner to be the 59579
average monthly tax liability of the vendor, based upon a review 59580
of the returns or other information pertaining to such vendor for 59581
a period of not less than six months nor more than two years 59582
immediately preceding the filing of the application. Vendors who 59583
agree to the above conditions shall make and file an annual or 59584
semiannual reconciliation return, as prescribed by the 59585
commissioner. The reconciliation return shall be filed by mailing 59586
or delivering it to the tax commissioner, together with payment of 59587
the amount of tax shown to be due thereon after deduction of any 59588

discount provided in this section. Remittance shall be made 59589
payable to the treasurer of state. Failure of a vendor to comply 59590
with any of the above conditions may result in immediate 59591
reinstatement of the requirement of reporting and paying the 59592
actual tax liability on each monthly return, and the commissioner 59593
may at the commissioner's discretion deny the vendor the right to 59594
report and pay based upon the average monthly liability for a 59595
period not to exceed two years. The amount ascertained by the 59596
commissioner to be the average monthly tax liability of a vendor 59597
may be adjusted, based upon a review of the returns or other 59598
information pertaining to the vendor for a period of not less than 59599
six months nor more than two years preceding such adjustment. 59600

(F) The commissioner may authorize vendors whose tax 59601
liability is not such as to merit monthly returns, as ascertained 59602
by the commissioner upon the basis of administrative costs to the 59603
state, to make and file returns at less frequent intervals. When 59604
returns are filed at less frequent intervals in accordance with 59605
such authorization, the vendor shall be allowed the discount of 59606
three-fourths of one per cent in consideration for prompt payment 59607
with the return, provided the return is filed together with 59608
payment of the amount of tax shown to be due thereon, at the time 59609
specified by the commissioner. 59610

(G) Any vendor who fails to file a return or pay the full 59611
amount of the tax shown on the return to be due under this section 59612
and the rules of the commissioner may, for each such return the 59613
vendor fails to file or each such tax the vendor fails to pay in 59614
full as shown on the return within the period prescribed by this 59615
section and the rules of the commissioner, be required to forfeit 59616
and pay into the state treasury an additional charge not exceeding 59617
fifty dollars or ten per cent of the tax required to be paid for 59618
the reporting period, whichever is greater, as revenue arising 59619
from the tax imposed by this chapter, and such sum may be 59620

collected by assessment in the manner provided in section 5739.13 59621
of the Revised Code. The commissioner may remit all or a portion 59622
of the additional charge and may adopt rules relating to the 59623
imposition and remission of the additional charge. 59624

(H) If the amount required to be collected by a vendor from 59625
consumers is in excess of five per cent of the vendor's receipts 59626
from sales which are taxable under section 5739.02 of the Revised 59627
Code, or in the case of sales subject to a tax levied pursuant to 59628
section 5739.021, 5739.023, or 5739.026 of the Revised Code, in 59629
excess of the percentage equal to the aggregate rate of such taxes 59630
and the tax levied by section 5739.02 of the Revised Code, such 59631
excess shall be remitted along with the remittance of the amount 59632
of tax due under section 5739.10 of the Revised Code. 59633

(I) The commissioner, if the commissioner deems it necessary 59634
in order to insure the payment of the tax imposed by this chapter, 59635
may require returns and payments to be made for other than monthly 59636
periods. The returns shall be signed by the vendor or the vendor's 59637
authorized agent. 59638

(J) Any vendor required to file a return and pay the tax 59639
under this section whose total payment in any year indicated in 59640
division (A) of section 5739.122 of the Revised Code equals or 59641
exceeds the amount shown in that division shall make each payment 59642
required by this section in the second ensuing and each succeeding 59643
year by electronic funds transfer as prescribed by section 59644
5739.122 of the Revised Code, except as otherwise prescribed by 59645
that section. 59646

(K) The commissioner may require any vendor that operates 59647
from multiple locations or has multiple vendor's licenses to 59648
report all tax liability on one consolidated return. 59649

Sec. 5739.17. (A) No person shall engage in making retail 59650
sales subject to a tax imposed by or pursuant to section 5739.02, 59651

5739.021, 5739.023, or 5739.026 of the Revised Code as a business 59652
without having a license therefor, except as otherwise provided in 59653
divisions (A)(1), (2), and (3) of this section. 59654

(1) In the dissolution of a partnership by death, the 59655
surviving partner may operate under the license of the partnership 59656
for a period of sixty days. 59657

(2) The heirs or legal representatives of deceased persons, 59658
and receivers and trustees in bankruptcy, appointed by any 59659
competent authority, may operate under the license of the person 59660
so succeeded in possession. 59661

(3) Two or more persons who are not partners may operate a 59662
single place of business under one license. In such case neither 59663
the retirement of any such person from business at that place of 59664
business, nor the entrance of any person, under an existing 59665
arrangement, shall affect the license or require the issuance of a 59666
new license, unless the person retiring from the business is the 59667
individual named on the vendor's license. 59668

Except as otherwise provided in this section, each applicant 59669
for a license shall make out and deliver to the county auditor of 59670
each county in which the applicant desires to engage in business, 59671
upon a blank to be furnished by such auditor for that purpose, a 59672
statement showing the name of the applicant, each place of 59673
business in the county where the applicant will make retail sales, 59674
the nature of the business, and any other information the tax 59675
commissioner reasonably prescribes in the form of a statement 59676
prescribed by the commissioner. 59677

At the time of making the application, the applicant shall 59678
pay into the county treasury a license fee in the sum of 59679
twenty-five dollars for each fixed place of business in the county 59680
that will be the situs of retail sales. Upon receipt of the 59681
application and exhibition of the county treasurer's receipt, 59682

showing the payment of the license fee, the county auditor shall 59683
issue to the applicant a license for each fixed place of business 59684
designated in the application, authorizing the applicant to engage 59685
in business at that location. If a vendor's identity changes, the 59686
vendor shall apply for a new license. If a vendor wishes to move 59687
an existing fixed place of business to a new location within the 59688
same county, the vendor shall obtain a new vendor's license or 59689
submit a request to the tax commissioner to transfer the existing 59690
vendor's license to the new location. When the new location has 59691
been verified as being within the same county, the commissioner 59692
shall authorize the transfer and notify the county auditor of the 59693
change of location. If a vendor wishes to move an existing fixed 59694
place of business to another county, the vendor's license shall 59695
not transfer and the vendor shall obtain a new vendor's license 59696
from the county in which the business is to be located. The form 59697
of the license shall be prescribed by the commissioner. The fees 59698
collected shall be credited to the general fund of the county. 59699

~~A vendor that makes retail sales subject to tax under Chapter 59700
5739. of the Revised Code pursuant to a permit issued by the 59701
division of liquor control shall obtain a vendor's license in the 59702
identical name and for the identical address as shown on the 59703
permit. 59704~~

Except as otherwise provided in this section, if a vendor has 59705
no fixed place of business and sells from a vehicle, each vehicle 59706
intended to be used within a county constitutes a place of 59707
business for the purpose of this section. 59708

(B) As used in this division, "transient vendor" means any 59709
person who makes sales of tangible personal property from vending 59710
machines located on land owned by others, who leases titled motor 59711
vehicles, titled watercraft, or titled outboard motors, who 59712
effectuates leases that are taxed according to division (H)(4) of 59713
section 5739.01 of the Revised Code, or who, in the usual course 59714

of the person's business, transports inventory, stock of goods, or 59715
similar tangible personal property to a temporary place of 59716
business or temporary exhibition, show, fair, flea market, or 59717
similar event in a county in which the person has no fixed place 59718
of business, for the purpose of making retail sales of such 59719
property. A "temporary place of business" means any public or 59720
quasi-public place including, but not limited to, a hotel, rooming 59721
house, storeroom, building, part of a building, tent, vacant lot, 59722
railroad car, or motor vehicle that is temporarily occupied for 59723
the purpose of making retail sales of goods to the public. A place 59724
of business is not temporary if the same person conducted business 59725
at the place continuously for more than six months or occupied the 59726
premises as the person's permanent residence for more than six 59727
months, or if the person intends it to be a fixed place of 59728
business. 59729

Any transient vendor, in lieu of obtaining a vendor's license 59730
under division (A) of this section for counties in which the 59731
transient vendor has no fixed place of business, may apply to the 59732
tax commissioner, on a form prescribed by the commissioner, for a 59733
transient vendor's license. The transient vendor's license 59734
authorizes the transient vendor to make retail sales in any county 59735
in which the transient vendor does not maintain a fixed place of 59736
business. Any holder of a transient vendor's license shall not be 59737
required to obtain a separate vendor's license from the county 59738
auditor in that county. Upon the commissioner's determination that 59739
an applicant is a transient vendor, the applicant shall pay a 59740
license fee in the amount of twenty-five dollars, at which time 59741
the tax commissioner shall issue the license. The tax commissioner 59742
may require a vendor to be licensed as a transient vendor if, in 59743
the opinion of the commissioner, such licensing is necessary for 59744
the efficient administration of the tax. 59745

Any holder of a valid transient vendor's license may make 59746

retail sales at a temporary place of business or temporary 59747
exhibition, show, fair, flea market, or similar event, held 59748
anywhere in the state without complying with any provision of 59749
section 311.37 of the Revised Code. Any holder of a valid vendor's 59750
license may make retail sales as a transient vendor at a temporary 59751
place of business or temporary exhibition, show, fair, flea 59752
market, or similar event held in any county in which the vendor 59753
maintains a fixed place of business for which the vendor holds a 59754
vendor's license without obtaining a transient vendor's license. 59755

(C) As used in this division, "service vendor" means any 59756
person who, in the usual course of the person's business, sells 59757
services described in division (B)(3)(e), (f), (g), (h), (i), (j), 59758
(k), (l), or (m) of section 5739.01 of the Revised Code. 59759

Every service vendor shall make application to the tax 59760
commissioner for a service vendor's license. Each applicant shall 59761
pay a license fee in the amount of twenty-five dollars. Upon the 59762
commissioner's determination that an applicant is a service vendor 59763
and payment of the fee, the commissioner shall issue the applicant 59764
a service vendor's license. 59765

Only sales described in division (B)(3)(e), (f), (g), (h), 59766
(i), (j), (k), (l), or (m) of section 5739.01 of the Revised Code 59767
may be made under authority of a service vendor's license, and 59768
that license authorizes sales to be made at any place in this 59769
state. Any service vendor who makes sales of other services or 59770
tangible personal property subject to the sales tax also shall be 59771
licensed under division (A), (B), or (D) of this section. 59772

(D) As used in this division, "delivery vendor" means any 59773
vendor who engages in one or more of the activities described in 59774
divisions (D)(1) to (4) of this section, and who maintains no 59775
store, showroom, or similar fixed place of business or other 59776
location where merchandise regularly is offered for sale or 59777
displayed or shown in catalogs for selection or pick-up by 59778

consumers, or where consumers bring goods for repair or other service. 59779
59780

(1) The vendor makes retail sales of tangible personal property; 59781
59782

(2) The vendor rents or leases, at retail, tangible personal property, except titled motor vehicles, titled watercraft, or titled outboard motors; 59783
59784
59785

(3) The vendor provides a service, at retail, described in division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the Revised Code; or 59786
59787
59788

(4) The vendor makes retail sales of warranty, maintenance or service contracts, or similar agreements as described in division (B)(7) of section 5739.01 of the Revised Code. 59789
59790
59791

A transient vendor or a seller registered pursuant to section 5741.17 of the Revised Code is not a delivery vendor. 59792
59793

Delivery vendors shall apply to the tax commissioner, on a form prescribed by the commissioner, for a delivery vendor's license. Each applicant shall pay a license fee of twenty-five dollars for each delivery vendor's license, to be credited to the general revenue fund. Upon the commissioner's determination that the applicant is a delivery vendor, the commissioner shall issue the license. A delivery vendor's license authorizes retail sales to be made throughout the state. All sales of the vendor must be reported under the delivery license. The commissioner may require a vendor to be licensed as a delivery vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax. The commissioner shall not issue a delivery vendor license to a vendor who holds a license issued under division (A) of this section. 59794
59795
59796
59797
59798
59799
59800
59801
59802
59803
59804
59805
59806
59807

(E) Any transient vendor who is issued a license pursuant to this section shall display the license or a copy of it 59808
59809

prominently, in plain view, at every place of business of the 59810
transient vendor. Every owner, organizer, or promoter who operates 59811
a fair, flea market, show, exhibition, convention, or similar 59812
event at which transient vendors are present shall keep a 59813
comprehensive record of all such vendors, listing the vendor's 59814
name, permanent address, vendor's license number, and the type of 59815
goods sold. Such records shall be kept for four years and shall be 59816
open to inspection by the tax commissioner. 59817

(F) A vendor that makes retail sales subject to tax under 59818
Chapter 5739. of the Revised Code pursuant to a permit issued by 59819
the division of liquor control shall obtain a vendor's license in 59820
the identical name and for the identical address as shown on the 59821
permit. 59822

(G)(1) As used in division (G) of this section, "Ohio 59823
business gateway" means the on-line computer network system, 59824
initially created by the department of administrative services 59825
under section 125.30 of the Revised Code that allows private 59826
businesses to electronically file business reply forms with state 59827
agencies. 59828

(2) For applicants required by this section to obtain 59829
licenses from the tax commissioner, the commissioner may provide 59830
them with the opportunity to use, or require the use of, the Ohio 59831
business gateway, or any successor electronic filing and payment 59832
system, to apply for licenses and pay license fees, if any. 59833

(3) Beginning January 1, 2005, the commissioner may provide 59834
any applicant required by this section to obtain a license from 59835
the county auditor with the opportunity to use the Ohio business 59836
gateway, or any successor electronic filing and payment system, to 59837
apply for the license and pay the license fee, if any. An 59838
applicant that files an application in this manner shall not make 59839
application to the county auditor and shall not pay into the 59840
county treasury the license fee. The commissioner shall issue the 59841

appropriate license for which the applicant applied, and the 59842
license shall authorize the applicant to engage in business as is 59843
appropriate under this section for the type of license issued. 59844

Sec. 5739.33. If any corporation, limited liability company, 59845
or business trust required to file returns and to remit tax due to 59846
the state under this chapter, including a holder of a direct 59847
payment permit under section 5739.031 of the Revised Code, fails 59848
for any reason to make the filing or payment, any of its employees 59849
having control or supervision of or charged with the 59850
responsibility of filing returns and making payments, or any of 59851
its officers, members, managers, or trustees who are responsible 59852
for the execution of the corporation's, limited liability 59853
company's, or business trust's fiscal responsibilities, shall be 59854
personally liable for the failure. The dissolution, termination, 59855
or bankruptcy of a corporation, limited liability company, or 59856
business trust shall not discharge a responsible officer's, 59857
member's, manager's, employee's, or trustee's liability for a 59858
failure of the corporation, limited liability company, or business 59859
trust to file returns or remit tax due. The sum due for the 59860
liability may be collected by assessment in the manner provided in 59861
section 5739.13 of the Revised Code. 59862

Sec. 5741.01. As used in this chapter: 59863

(A) "Person" includes individuals, receivers, assignees, 59864
trustees in bankruptcy, estates, firms, partnerships, 59865
associations, joint-stock companies, joint ventures, clubs, 59866
societies, corporations, limited liability partnerships, limited 59867
liability companies, business trusts, governments, and 59868
combinations of individuals of any form. 59869

(B) "Storage" means and includes any keeping or retention in 59870
this state for use or other consumption in this state. 59871

(C) "Use" means and includes the exercise of any right or power incidental to the ownership of the thing used. A thing is also "used" in this state if its consumer gives or otherwise distributes it, without charge, to recipients in this state.

(D) "Purchase" means acquired or received for a consideration, whether such acquisition or receipt was effected by a transfer of title, or of possession, or of both, or a license to use or consume; whether such transfer was absolute or conditional, and by whatever means the transfer was effected; and whether the consideration was money, credit, barter, or exchange. Purchase includes production, even though the article produced was used, stored, or consumed by the producer. The transfer of copyrighted motion picture films for exhibition purposes is not a purchase, except such films as are used solely for advertising purposes.

(E) "Seller" means the person from whom a purchase is made, and includes every person engaged in this state or elsewhere in the business of selling tangible personal property or providing a service for storage, use, or other consumption or benefit in this state; and when, in the opinion of the tax commissioner, it is necessary for the efficient administration of this chapter, to regard any salesman, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom the person operates, or from whom the person obtains tangible personal property, sold by the person for storage, use, or other consumption in this state, irrespective of whether or not the person is making such sales on the person's own behalf, or on behalf of such dealer, distributor, supervisor, or employer, the commissioner may regard the person as such agent, and may regard such dealer, distributor, supervisor, or employer as the seller. "Seller" does not include any person to the extent the person provides a communications medium, such as, but not limited to, newspapers, magazines, radio, television, or cable television, by

means of which sellers solicit purchases of their goods or 59904
services. 59905

(F)(1) "Consumer" means any person who has purchased tangible 59906
personal property or has been provided a service for storage, use, 59907
or other consumption or benefit in this state. "Consumer" does not 59908
include a person who receives, without charge, tangible personal 59909
property or a service. 59910

(2) A person who performs a facility management or similar 59911
service contract for a contractee is a consumer of all tangible 59912
personal property and services purchased for use in connection 59913
with the performance of such contract, regardless of whether title 59914
to any such property vests in the contractee. The purchase of such 59915
property and services is not subject to the exception for resale 59916
under division (E)(1) of section 5739.01 of the Revised Code. 59917

(3)(a) As used in division (F)(3) of this section, 59918
"qualifying affiliated group member," "another qualifying 59919
affiliated group member," and "unrelated third party" have the 59920
same meanings as in division (D)(6) of section 5739.01 of the 59921
Revised Code. 59922

(b) A qualifying affiliated group member that purchases 59923
tangible personal property for sale, lease, or rental to another 59924
qualifying affiliated group member for any reason other than that 59925
member's resale, re-lease, or re-rental to an unrelated third 59926
party, as determined under divisions (D)(6)(c)(i), (ii), and (iii) 59927
and (D)(6)(d) of section 5739.01 of the Revised Code, is the 59928
consumer of the property for that sale, lease, or rental and is 59929
not entitled to claim an exception for resale with respect to that 59930
purchase, as otherwise permitted by division (E)(1) of section 59931
5739.01 of the Revised Code, in conjunction with section 5741.02 59932
of the Revised Code. The consumer may claim any other exemption or 59933
exception that would be available to the qualifying affiliated 59934
group member to whom the property is sold, leased, or rented, as 59935

if that member had purchased, leased, or rented that property from 59936
an unrelated third party. 59937

(c) A qualifying affiliated group member that purchases, 59938
leases, or rents tangible personal property from another 59939
qualifying affiliated group member is the consumer of the property 59940
purchased, leased, or rented. 59941

(G)(1) "Price," except in the case of watercraft, outboard 59942
motors, or new motor vehicles, means the aggregate value in money 59943
of anything paid or delivered, or promised to be paid or 59944
delivered, by a consumer to a seller in the complete performance 59945
of the transaction by which tangible personal property has been 59946
purchased or a service has been provided for storage, use, or 59947
other consumption or benefit in this state, without any deduction 59948
or exclusion on account of the cost of the property sold, cost of 59949
materials used, labor or service cost, interest, discount paid or 59950
allowed after the sale is consummated, or any other expense. If 59951
the transaction consists of the rental or lease of tangible 59952
personal property, "price" means the aggregate value in money of 59953
anything paid or delivered, or promised to be paid or delivered by 59954
the lessee to the lessor, in the complete performance of the 59955
rental or lease, without any deduction or exclusion of tax, 59956
interest, labor or service charge, damage liability waiver, 59957
termination or damage charge, discount paid or allowed after the 59958
lease is consummated, or any other expense. Except as provided in 59959
division (G)(6) of this section, the tax shall be calculated and 59960
collected by the lessor on each payment made by the lessee. If a 59961
consumer produces the tangible personal property used by the 59962
consumer, the price is the produced cost of such tangible personal 59963
property. "Price" does not include delivery charges that are 59964
separately stated on the initial invoice or initial billing 59965
rendered by the seller. 59966

The tax collected by the seller from the consumer under this 59967

chapter is not a part of the price, but is a tax collection for 59968
the benefit of the state, and of counties levying an additional 59969
use tax pursuant to section 5741.021 or 5741.023 of the Revised 59970
Code and of transit authorities levying an additional use tax 59971
pursuant to section 5741.022 of the Revised Code and, except for 59972
the discount authorized under section 5741.12 of the Revised Code 59973
and the effects of any rounding pursuant to section 5703.055 of 59974
the Revised Code, no person other than the state or such a county 59975
or transit authority shall derive any benefit from the collection 59976
or payment of such tax. 59977

As used in division (G)(1) of this section, "delivery 59978
charges" means charges by the seller for preparation and delivery 59979
to a location designated by the consumer of tangible personal 59980
property or a service, including transportation, shipping, 59981
postage, handling, crating, and packing. 59982

(2) In the case of watercraft, outboard motors, or new motor 59983
vehicles, "price" has the same meaning as in division (H) of 59984
section 5739.01 of the Revised Code. 59985

(3) In the case of a nonresident business consumer that 59986
purchases and uses tangible personal property outside this state 59987
and subsequently temporarily stores, uses, or otherwise consumes 59988
such tangible personal property in the conduct of business in this 59989
state, the consumer or the tax commissioner may determine the 59990
price based on the value of the temporary storage, use, or other 59991
consumption, in lieu of determining the price pursuant to division 59992
(G)(1) of this section. A price determination made by the consumer 59993
is subject to review and redetermination by the commissioner. 59994

(4) In the case of tangible personal property held in this 59995
state as inventory for sale or lease, and that is temporarily 59996
stored, used, or otherwise consumed in a taxable manner, the price 59997
is the value of the temporary use. A price determination made by 59998
the consumer is subject to review and redetermination by the 59999

commissioner. 60000

(5) In the case of tangible personal property originally 60001
purchased and used by the consumer outside this state, and that 60002
becomes permanently stored, used, or otherwise consumed in this 60003
state more than six months after its acquisition by the consumer, 60004
the consumer or the commissioner may determine the price based on 60005
the current value of such tangible personal property, in lieu of 60006
determining the price pursuant to division (G)(1) of this section. 60007
A price determination made by the consumer is subject to review 60008
and redetermination by the commissioner. 60009

(6) In the case of the purchase or lease of any motor vehicle 60010
designed by the manufacturer to carry a load of not more than one 60011
ton, watercraft, outboard motor, or aircraft, or the lease of any 60012
tangible personal property, other than motor vehicles designed by 60013
the manufacturer to carry a load of more than one ton, to be used 60014
by the lessee primarily for business purposes, the tax shall be 60015
collected by the vendor at the time the lease is consummated and 60016
calculated by the vendor on the basis of the total amount to be 60017
paid by the lessee under the lease agreement. If the total amount 60018
of the consideration for the lease includes amounts that are not 60019
calculated at the time the lease is executed, the tax shall be 60020
calculated and collected by the vendor at the time such amounts 60021
are billed to the lessee. In the case of an open-end lease, the 60022
tax shall be calculated by the vendor on the basis of the total 60023
amount to be paid during the initial fixed term of the lease, and 60024
then for each subsequent renewal period as it comes due. In the 60025
case of a lease with a renewal clause and a termination penalty or 60026
similar provision that applies if the renewal clause is not 60027
exercised, the tax shall be calculated and paid by the vendor on 60028
the basis of the entire length of the lease period, including any 60029
renewal period, until the termination penalty or similar provision 60030
no longer applies. As used in division (G)(6) of this section 60031

only, "motor vehicle" has the same meaning as in section 4501.01 60032
of the Revised Code. 60033

(H) "Nexus with this state" means that the seller engages in 60034
continuous and widespread solicitation of purchases from residents 60035
of this state or otherwise purposefully directs its business 60036
activities at residents of this state. 60037

(I) "Substantial nexus with this state" means that the seller 60038
has sufficient contact with this state, in accordance with Section 60039
8 of Article I of the Constitution of the United States, to allow 60040
the state to require the seller to collect and remit use tax on 60041
sales of tangible personal property or services made to consumers 60042
in this state. "Substantial nexus with this state" exists when the 60043
seller, or another person acting on behalf of the seller, does any 60044
of the following: 60045

(1) Maintains a place of business within this state, whether 60046
operated by employees or agents of the seller, by a member of an 60047
affiliated group, as described in division (B)(3)(e) of section 60048
5739.01 of the Revised Code, of which the seller is a member, or 60049
by a franchisee using a trade name of the seller; 60050

(2) Regularly has employees, ~~agents,~~ representatives, 60051
solicitors, installers, repairmen, salesmen, agents, or other 60052
individuals in this state ~~for the purpose of conducting the~~ 60053
~~business of~~ engaging in any activity that creates, develops, or 60054
maintains a market for the seller; 60055

(3) Uses a person in this state ~~for the purpose of~~ receiving 60056
or processing orders of the seller's goods or services, accepting 60057
returns of merchandise purchased from the seller, or providing 60058
repair or warranty services to the seller's customers; 60059

(4) Makes regular deliveries of tangible personal property 60060
into this state by means other than common carrier, or by common 60061
carrier, if the carrier is a member with the seller in an 60062

<u>affiliated group, as described in division (B)(3)(e) of section</u>	60063
<u>5739.01 of the Revised Code;</u>	60064
(5) Has membership in an affiliated group, as described in	60065
division (B)(3)(e) of section 5739.01 of the Revised Code, at	60066
least one other member of which has substantial nexus with this	60067
state, <u>where the member benefits the seller in any of the</u>	60068
<u>following ways:</u>	60069
<u>(a) Does anything listed in divisions (I)(1) to (8) of this</u>	60070
<u>section on behalf of the seller;</u>	60071
<u>(b) Uses an identical or substantially similar name, trade</u>	60072
<u>name, or trademark, or the seller's goodwill to develop, promote,</u>	60073
<u>or maintain sales;</u>	60074
<u>(c) Shares a common business plan or substantially</u>	60075
<u>coordinates its business plan with the seller;</u>	60076
(6) Owns tangible personal property that is rented or leased	60077
to a consumer in this state, or offers tangible personal property,	60078
on approval, to consumers in this state;	60079
(7) Except as provided in section 5703.65 of the Revised	60080
Code, is registered with the secretary of state to do business in	60081
this state or is registered or licensed by any state agency,	60082
board, or commission to transact business in this state or to make	60083
sales to persons in this state;	60084
(8) Has any other contact with this state that would allow	60085
this state to require the seller to collect and remit use tax	60086
under Section 8 of Article I of the Constitution of the United	60087
States.	60088
(J) "Fiscal officer" means, with respect to a regional	60089
transit authority, the secretary-treasurer thereof, and with	60090
respect to a county which is a transit authority, the fiscal	60091
officer of the county transit board appointed pursuant to section	60092

306.03 of the Revised Code or, if the board of county
commissioners operates the county transit system, the county
auditor.

(K) "Territory of the transit authority" means all of the
area included within the territorial boundaries of a transit
authority as they from time to time exist. Such territorial
boundaries must at all times include all the area of a single
county or all the area of the most populous county which is a part
of such transit authority. County population shall be measured by
the most recent census taken by the United States census bureau.

(L) "Transit authority" means a regional transit authority
created pursuant to section 306.31 of the Revised Code or a county
in which a county transit system is created pursuant to section
306.01 of the Revised Code. For the purposes of this chapter, a
transit authority must extend to at least the entire area of a
single county. A transit authority which includes territory in
more than one county must include all the area of the most
populous county which is a part of such transit authority. County
population shall be measured by the most recent census taken by
the United States census bureau.

(M) "Providing a service" has the same meaning as in division
(X) of section 5739.01 of the Revised Code.

(N) "Other consumption" includes receiving the benefits of a
service.

(O) "Lease" means any transfer for a consideration of the
possession of and right to use, but not title to, tangible
personal property for a fixed period of time greater than thirty
days or for an open-ended period of time with a minimum fixed
period of more than thirty days.

(P) "Certified service provider" has the same meaning as in
section 5740.01 of the Revised Code.

Sec. 5741.02. (A) For the use of the general revenue fund of 60124
the state, an excise tax is hereby levied on the storage, use, or 60125
other consumption in this state of tangible personal property or 60126
the benefit realized in this state of any service provided. The 60127
tax shall be collected pursuant to the schedules in section 60128
5739.025 of the Revised Code. 60129

(B) Each consumer, storing, using, or otherwise consuming in 60130
this state tangible personal property or realizing in this state 60131
the benefit of any service provided, shall be liable for the tax, 60132
and such liability shall not be extinguished until the tax has 60133
been paid to this state; provided, that the consumer shall be 60134
relieved from further liability for the tax if the tax has been 60135
paid to a seller in accordance with section 5741.04 of the Revised 60136
Code or prepaid by the seller in accordance with section 5741.06 60137
of the Revised Code. 60138

(C) The tax does not apply to the storage, use, or 60139
consumption in this state of the following described tangible 60140
personal property or services, nor to the storage, use, or 60141
consumption or benefit in this state of tangible personal property 60142
or services purchased under the following described circumstances: 60143

(1) When the sale of property or service in this state is 60144
subject to the excise tax imposed by sections 5739.01 to 5739.31 60145
of the Revised Code, provided said tax has been paid; 60146

(2) Except as provided in division (D) of this section, 60147
tangible personal property or services, the acquisition of which, 60148
if made in Ohio, would be a sale not subject to the tax imposed by 60149
sections 5739.01 to 5739.31 of the Revised Code; 60150

(3) Property or services, the storage, use, or other 60151
consumption of or benefit from which this state is prohibited from 60152
taxing by the Constitution of the United States, laws of the 60153

United States, or the Constitution of this state. This exemption 60154
shall not exempt from the application of the tax imposed by this 60155
section the storage, use, or consumption of tangible personal 60156
property that was purchased in interstate commerce, but that has 60157
come to rest in this state, provided that fuel to be used or 60158
transported in carrying on interstate commerce that is stopped 60159
within this state pending transfer from one conveyance to another 60160
is exempt from the excise tax imposed by this section and section 60161
5739.02 of the Revised Code; 60162

(4) Transient use of tangible personal property in this state 60163
by a nonresident tourist or vacationer, or a non-business use 60164
within this state by a nonresident of this state, if the property 60165
so used was purchased outside this state for use outside this 60166
state and is not required to be registered or licensed under the 60167
laws of this state; 60168

(5) Tangible personal property or services rendered upon 60169
which taxes have been paid to another jurisdiction to the extent 60170
of the amount of the tax paid to such other jurisdiction. Where 60171
the amount of the tax imposed by this section and imposed pursuant 60172
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 60173
exceeds the amount paid to another jurisdiction, the difference 60174
shall be allocated between the tax imposed by this section and any 60175
tax imposed by a county or a transit authority pursuant to section 60176
5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 60177
to the respective rates of such taxes. 60178

As used in this subdivision, "taxes paid to another 60179
jurisdiction" means the total amount of retail sales or use tax or 60180
similar tax based upon the sale, purchase, or use of tangible 60181
personal property or services rendered legally, levied by and paid 60182
to another state or political subdivision thereof, or to the 60183
District of Columbia, where the payment of such tax does not 60184
entitle the taxpayer to any refund or credit for such payment. 60185

(6) The transfer of a used manufactured home or used mobile home, as defined by section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(7) Drugs that are or are intended to be distributed free of charge to a practitioner licensed to prescribe, dispense, and administer drugs to a human being in the course of a professional practice and that by law may be dispensed only by or upon the order of such a practitioner.

(D) The tax applies to the storage, use, or other consumption in this state of tangible personal property or services, the acquisition of which at the time of sale was excepted under division (E)(1) of section 5739.01 of the Revised Code from the tax imposed by section 5739.02 of the Revised Code, but which has subsequently been temporarily or permanently stored, used, or otherwise consumed in a taxable manner.

(E) If any transaction is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to ~~(11) or (28)~~ (10) of section 5739.02 of the Revised Code, the consumer shall furnish to the seller, and the seller shall obtain from the consumer, a certificate specifying the reason that the transaction is not subject to the tax. If the transaction is claimed to be exempt under division (B)~~(13)~~ (12) of section 5739.02 of the Revised Code, the exemption certificate shall be signed by both the contractor and contractee, and the contractee shall be deemed to be the consumer of all items purchased under the claim of exemption if it is subsequently determined that the exemption is not properly claimed. The certificate shall be in such form as the tax commissioner by rule prescribes. If no certificate is furnished or obtained within the period for filing the return for the period in which the transaction is consummated, it shall be presumed that the tax applies. The failure to have so furnished or

obtained a certificate shall not preclude a seller or consumer 60218
from establishing, within one hundred twenty days of the giving of 60219
notice by the commissioner of intention to levy an assessment, 60220
that the transaction is not subject to the tax. 60221

(F) A seller who files a petition for reassessment contesting 60222
the assessment of tax on transactions for which the seller 60223
obtained no valid exemption certificates and for which the seller 60224
failed to establish that the transactions were not subject to the 60225
tax during the one-hundred-twenty-day period allowed under 60226
division (E) of this section may present to the tax commissioner 60227
additional evidence to prove that the transactions were exempt. 60228
The seller shall file such evidence within ninety days of the 60229
receipt by the seller of the notice of assessment, except that, 60230
upon application and for reasonable cause, the tax commissioner 60231
may extend the period for submitting such evidence thirty days. 60232

(G) For the purpose of the proper administration of sections 60233
5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 60234
of the tax hereby levied, it shall be presumed that any use, 60235
storage, or other consumption of tangible personal property in 60236
this state is subject to the tax until the contrary is 60237
established. 60238

(H)(1) As used in division (H)(2) of this section, 60239
"qualifying affiliated group member" and "another qualifying 60240
affiliated group member" have the same meanings as in division 60241
(D)(6) of section 5739.01 of the Revised Code. 60242

(2) A qualifying affiliated group member that purchases, 60243
leases, or rents tangible personal property from another 60244
qualifying affiliated group member may credit against the tax due 60245
under this section or section 5741.021, 5741.022, or 5741.023 of 60246
the Revised Code, up to the amount of the tax due, any sales, use, 60247
or other similar tax paid to this state or to any other state by 60248
the other qualifying affiliated group member on the purchase, 60249

lease, or rental of the property. 60250

Sec. 5741.25. If any corporation, limited liability company, 60251
or business trust registered or required to be registered under 60252
section 5741.17 of the Revised Code and required to file returns 60253
and remit tax due to the state under this chapter fails for any 60254
reason to make the filing or payment, any of its employees having 60255
control or supervision of or charged with the responsibility of 60256
filing returns and making payments, or any of its officers, 60257
members, managers, or trustees who are responsible for the 60258
execution of the corporation's, limited liability company's, or 60259
business trust's fiscal responsibilities, shall be personally 60260
liable for the failure. The dissolution, termination, or 60261
bankruptcy of a corporation, limited liability company, or 60262
business trust shall not discharge a responsible officer's, 60263
member's, manager's, employee's, or trustee's liability for a 60264
failure of the corporation, limited liability company, or business 60265
trust to file returns or remit tax due. The sum due for the 60266
liability may be collected by assessment in the manner provided in 60267
section 5741.11 or 5741.13 of the Revised Code. 60268

Sec. 5743.02. To provide revenues for the general revenue 60269
fund, an excise tax on sales of cigarettes is hereby levied at the 60270
rate of ~~twenty seven and one half~~ fifty mills on each cigarette. 60271

Only one sale of the same article shall be used in computing 60272
the amount of tax due. 60273

The treasurer of state shall place to the credit of the tax 60274
refund fund created by section 5703.052 of the Revised Code, out 60275
of receipts from the tax levied by this section, amounts equal to 60276
the refunds certified by the tax commissioner pursuant to section 60277
5743.05 of the Revised Code. The balance of taxes collected under 60278
such section, after the credits to the tax refund fund, shall be 60279

paid into the general revenue fund. 60280

Sec. 5743.32. To provide revenue for the general revenue fund 60281
of the state, an excise tax is hereby levied on the use, 60282
consumption, or storage for consumption of cigarettes by consumers 60283
in this state at the rate of ~~twenty seven and one half~~ fifty mills 60284
on each cigarette. The tax shall not apply if the tax levied by 60285
section 5743.02 of the Revised Code has been paid. 60286

The money received into the state treasury from the excise 60287
tax levied by this section shall be credited to the general 60288
revenue fund. 60289

Sec. 5745.01. As used in this chapter: 60290

(A) "Electric company_L" ~~and~~ "combined company_L" and 60291
"telephone company" have the same meanings as in section 5727.01 60292
of the Revised Code. 60293

(B) "Electric light company" has the same meaning as in 60294
section 4928.01 of the Revised Code, and includes the activities 60295
of a combined company as an electric company, but excludes 60296
nonprofit companies and municipal corporations. 60297

(C) "Taxpayer" means ~~an~~ either of the following: 60298

(1) An electric light company subject to taxation by a 60299
municipal corporation in this state for a taxable year, excluding 60300
an electric light company that is not an electric company or a 60301
combined company and for which an election made under section 60302
5745.031 of the Revised Code is not in effect with respect to the 60303
taxable year. If such a company is a qualified subchapter S 60304
subsidiary as defined in section 1361 of the Internal Revenue Code 60305
or a disregarded entity, the company's parent S corporation or 60306
owner is the taxpayer for the purposes of this chapter and is 60307
hereby deemed to have nexus with this state under the Constitution 60308
of the United States for the purposes of this chapter. 60309

(2) A telephone company subject to taxation by a municipal corporation in this state for a taxable year. A telephone company is subject to taxation under this chapter for any taxable year that begins on or after January 1, 2004. A telephone company with a taxable year beginning in 2003 and ending in 2004 shall compute the tax imposed under this chapter by multiplying the tax owed by the number of days in the taxable year that are in 2004, and dividing that result by the total number of days in the taxable year.

(D) "Disregarded entity" means an entity that, for its taxable year, is by default, or has elected to be, disregarded as an entity separate from its owner pursuant to 26 C.F.R. 301.7701-3.

(E) "Taxable year" of a taxpayer is the taxpayer's taxable year for federal income tax purposes.

(F) "Federal taxable income" means 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.

(G) "Adjusted federal taxable income" means federal taxable income adjusted as follows:

(1) Deduct intangible income as defined in section 718.01 of the Revised Code to the extent included in federal taxable income;

(2) Add expenses incurred in the production of such intangible income;

(3) If, with respect to a qualifying taxpayer and a qualifying asset there occurs a qualifying taxable event, the qualifying taxpayer shall reduce its federal taxable income, as defined in division (F) of this section, by the amount of the ~~book-tax differential~~ difference for that qualifying asset if the

book-tax ~~differential~~ difference is greater than zero, and shall 60340
increase its federal taxable income by the absolute value of the 60341
amount of the book-tax ~~differential~~ difference for that qualifying 60342
asset if the book-tax ~~differential~~ difference is less than zero. 60343
The adjustments provided in division (G)(3) of this section are 60344
subject to divisions (B)(3), (4), and (5) of section 5733.0510 of 60345
the Revised Code to the extent those divisions apply to the 60346
adjustments in that section for the taxable year. A taxpayer shall 60347
not deduct or add any amount under division (G)(3) of this section 60348
with respect to a qualifying asset the sale, exchange, or other 60349
disposition of which resulted in the recognition of a gain or loss 60350
that the taxpayer deducted or added, respectively, under division 60351
(G)(1) or (2) of this section. 60352

For the purposes of division (G)(3) of this section, "~~net~~ 60353
~~income~~" ~~has the same meaning as in section 5733.04 of the Revised~~ 60354
~~Code, and~~ "book-tax ~~differential~~ difference," "qualifying 60355
taxpayer," "qualifying asset," and "qualifying taxable event" have 60356
the same meanings as in section 5733.0510 of the Revised Code. 60357

(4) Add the amounts described in section 5745.042 of the 60358
Revised Code. 60359

If the taxpayer is not a C corporation or an individual, the 60360
taxpayer shall compute "adjusted federal taxable income" as if the 60361
taxpayer were a C corporation, but with respect to each 60362
owner-employee of the taxpayer, amounts paid or accrued to a 60363
qualified self-employed retirement plan and amounts paid or 60364
accrued to health insurance or life insurance shall not be allowed 60365
as a deduction. Nothing in this division shall be construed as 60366
allowing the taxpayer to deduct any amount more than once. 60367

(H) "Internal Revenue Code" means the "Internal Revenue Code 60368
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as ~~amended~~ it existed on 60369
December 31, 2001. 60370

(I) "Ohio net income" means the amount determined under 60371
division (B) of section 5745.02 of the Revised Code. 60372

Sec. 5745.02. (A) The annual report filed under section 60373
5745.03 of the Revised Code determines a taxpayer's Ohio net 60374
income and the portion of Ohio net income to be apportioned to a 60375
municipal corporation. 60376

(B) A taxpayer's Ohio net income is determined by multiplying 60377
the taxpayer's adjusted federal taxable income by the sum of the 60378
property factor multiplied by one-third, the payroll factor 60379
multiplied by one-third, and the sales factor multiplied by 60380
one-third. If the denominator of one of the factors is zero, the 60381
remaining two factors each shall be multiplied by one-half instead 60382
of one-third; if the denominator of two of the factors is zero, 60383
the remaining factor shall be multiplied by one. The property, 60384
payroll, and sales factors shall be determined in the manner 60385
prescribed by divisions (B)(1), (2), and (3) of this section. 60386

(1) The property factor is a fraction, the numerator of which 60387
is the average value of the taxpayer's real and tangible personal 60388
property owned or rented, and used in business in this state 60389
during the taxable year, and the denominator of which is the 60390
average value of all the taxpayer's real and tangible personal 60391
property owned or rented, and used in business everywhere during 60392
such year. Property owned by the taxpayer is valued at its 60393
original cost. Property rented by the taxpayer is valued at eight 60394
times the net annual rental rate. "Net annual rental rate" means 60395
the annual rental rate paid by the taxpayer less any annual rental 60396
rate received by the taxpayer from subrentals. The average value 60397
of property shall be determined by averaging the values at the 60398
beginning and the end of the taxable year, but the tax 60399
commissioner may require the averaging of monthly values during 60400
the taxable year, if reasonably required to reflect properly the 60401

average value of the taxpayer's property. 60402

(2) The payroll factor is a fraction, the numerator of which 60403
is the total amount paid in this state during the taxable year by 60404
the taxpayer for compensation, and the denominator of which is the 60405
total compensation paid everywhere by the taxpayer during such 60406
year. Compensation means any form of remuneration paid to an 60407
employee for personal services. Compensation is paid in this state 60408
if: (a) the recipient's service is performed entirely within this 60409
state, (b) the recipient's service is performed both within and 60410
without this state, but the service performed without this state 60411
is incidental to the recipient's service within this state, or (c) 60412
some of the service is performed within this state and either the 60413
base of operations, or if there is no base of operations, the 60414
place from which the service is directed or controlled is within 60415
this state, or the base of operations or the place from which the 60416
service is directed or controlled is not in any state in which 60417
some part of the service is performed, but the recipient's 60418
residence is in this state. 60419

(3) The sales factor is a fraction, the numerator of which is 60420
the total sales in this state by the taxpayer during the taxable 60421
year, and the denominator of which is the total sales by the 60422
taxpayer everywhere during such year. Sales of electricity shall 60423
be situated to this state in the manner provided under section 60424
5733.059 of the Revised Code. In determining the numerator and 60425
denominator of the sales factor, receipts from the sale or other 60426
disposal of a capital asset or an asset described in section 1231 60427
of the Internal Revenue Code shall be eliminated. Also, in 60428
determining the numerator and denominator of the sales factor, in 60429
the case of a reporting taxpayer owning at least eighty per cent 60430
of the issued and outstanding common stock of one or more 60431
insurance companies or public utilities, except an electric 60432
company, a combined company, or a telephone company, or owning at 60433

least twenty-five per cent of the issued and outstanding common 60434
stock of one or more financial institutions, receipts received by 60435
the reporting taxpayer from such utilities, insurance companies, 60436
and financial institutions shall be eliminated. 60437

For the purpose of division (B)(3) of this section, sales of 60438
tangible personal property are in this state where such property 60439
is received in this state by the purchaser. In the case of 60440
delivery of tangible personal property by common carrier or by 60441
other means of transportation, the place at which such property is 60442
ultimately received after all transportation has been completed 60443
shall be considered as the place at which such property is 60444
received by the purchaser. Direct delivery in this state, other 60445
than for purposes of transportation, to a person or firm 60446
designated by a purchaser constitutes delivery to the purchaser in 60447
this state, and direct delivery outside this state to a person or 60448
firm designated by a purchaser does not constitute delivery to the 60449
purchaser in this state, regardless of where title passes or other 60450
conditions of sale. 60451

Sales, other than sales of electricity or tangible personal 60452
property, are in this state if either the income-producing 60453
activity is performed solely in this state, or the 60454
income-producing activity is performed both within and without 60455
this state and a greater proportion of the income-producing 60456
activity is performed within this state than in any other state, 60457
based on costs of performance. 60458

(C) The portion of a taxpayer's Ohio net income taxable by 60459
each municipal corporation imposing an income tax shall be 60460
determined by multiplying the taxpayer's Ohio net income by the 60461
sum of the municipal property factor multiplied by one-third, the 60462
municipal payroll factor multiplied by one-third, and the 60463
municipal sales factor multiplied by one-third, and subtracting 60464
from the product so obtained any "municipal net operating loss 60465

carryforward from prior taxable years." If the denominator of one 60466
of the factors is zero, the remaining two factors each shall be 60467
multiplied by one-half instead of one-third; if the denominator of 60468
two of the factors is zero, the remaining factor shall be 60469
multiplied by one. In calculating the "municipal net operating 60470
loss carryforward from prior taxable years" for each municipal 60471
corporation, net operating losses are apportioned in and out of a 60472
municipal corporation for the taxable year in which the net 60473
operating loss occurs in the same manner that positive net income 60474
would have been so apportioned. Any net operating loss for a 60475
municipal corporation may be applied to subsequent net income in 60476
that municipal corporation to reduce that income to zero or until 60477
the net operating loss has been fully used as a deduction. The 60478
unused portion of net operating losses for each taxable year 60479
apportioned to a municipal corporation may only be applied against 60480
the income apportioned to that municipal corporation for five 60481
subsequent taxable years. Net operating losses occurring in 60482
taxable years ending before 2002 may not be subtracted under this 60483
section. 60484

A taxpayer's municipal property, municipal payroll, and 60485
municipal sales factors for a municipal corporation shall be 60486
determined as provided in divisions (C)(1), (2), and (3) of this 60487
section. 60488

(1) The municipal property factor is the quotient obtained by 60489
dividing (a) the average value of real and tangible personal 60490
property owned or rented by the taxpayer and used in business in 60491
the municipal corporation during the taxable year by (b) the 60492
average value of all of the taxpayer's real and tangible personal 60493
property owned or rented and used in business during that taxable 60494
year in this state. The value and average value of such property 60495
shall be determined in the same manner provided in division (B)(1) 60496
of this section. 60497

(2) The municipal payroll factor is the quotient obtained by 60498
dividing (a) the total amount of compensation earned in the 60499
municipal corporation by the taxpayer's employees during the 60500
taxable year for services performed for the taxpayer and that is 60501
subject to income tax withholding by the municipal corporation by 60502
(b) the total amount of compensation paid by the taxpayer to its 60503
employees in this state during the taxable year. Compensation has 60504
the same meaning as in division (B)(2) of this section. 60505

(3) The municipal sales factor is a fraction, the numerator 60506
of which is the taxpayer's total sales in a municipal corporation 60507
during the taxable year, and the denominator of which is the 60508
taxpayer's total sales in this state during such year. 60509

For the purpose of division (C)(3) of this section, sales of 60510
tangible personal property are in the municipal corporation where 60511
such property is received in the municipal corporation by the 60512
purchaser. Sales of electricity directly to the consumer, as 60513
defined in section 5733.059 of the Revised Code, shall be 60514
considered sales of tangible personal property. In the case of the 60515
delivery of tangible personal property by common carrier or by 60516
other means of transportation, the place at which such property 60517
ultimately is received after all transportation has been completed 60518
shall be considered as the place at which the property is received 60519
by the purchaser. Direct delivery in the municipal corporation, 60520
other than for purposes of transportation, to a person or firm 60521
designated by a purchaser constitutes delivery to the purchaser in 60522
that municipal corporation, and direct delivery outside the 60523
municipal corporation to a person or firm designated by a 60524
purchaser does not constitute delivery to the purchaser in that 60525
municipal corporation, regardless of where title passes or other 60526
conditions of sale. Sales, other than sales of tangible personal 60527
property, are in the municipal corporation if either: 60528

(a) The income-producing activity is performed solely in the 60529

municipal corporation; 60530

(b) The income-producing activity is performed both within 60531
and without the municipal corporation and a greater proportion of 60532
the income-producing activity is performed within that municipal 60533
corporation than any other location in this state, based on costs 60534
of performance. 60535

(D) If a taxpayer is a combined company as defined in section 60536
5727.01 of the Revised Code, the municipal property, payroll, and 60537
sales factors under division (C) of this section shall be adjusted 60538
as follows: 60539

(1) The numerator of the municipal property factor shall 60540
include only the value, as determined under division (C)(1) of 60541
this section, of the company's real and tangible property in the 60542
municipal corporation attributed to the company's activity as an 60543
electric company using the same methodology prescribed under 60544
section 5727.03 of the Revised Code for taxable tangible personal 60545
property. 60546

(2) The numerator of the municipal payroll factor shall 60547
include only compensation paid in the municipal corporation by the 60548
company to its employees for personal services rendered in the 60549
company's activity as an electric company. 60550

(3) The numerator of the municipal sales factor shall include 60551
only the sales of tangible personal property and services, as 60552
determined under division (C)(3) of this section, made in the 60553
municipal corporation in the course of the company's activity as 60554
an electric company. 60555

(E)(1) If the provisions for apportioning adjusted federal 60556
taxable income or Ohio net income under ~~division~~ divisions (B), 60557
(C), and (D) of this section do not fairly represent business 60558
activity in this state or among municipal corporations, the tax 60559
commissioner may adopt rules for apportioning such income by an 60560

alternative method that fairly represents business activity in 60561
this state or among municipal corporations. 60562

(2) If any of the factors determined under division (B), (C), 60563
or (D) of this section does not fairly represent the extent of a 60564
taxpayer's business activity in this state or among municipal 60565
corporations, the taxpayer may request, or the tax commissioner 60566
may require, that the taxpayer's adjusted federal taxable income 60567
or Ohio net income be determined by an alternative method, 60568
including any of the alternative methods enumerated in division 60569
(B)(2)(d) of section 5733.05 of the Revised Code. A taxpayer 60570
requesting an alternative method shall make the request in writing 60571
to the tax commissioner either with the annual report, a timely 60572
filed amended report, or a timely filed petition for reassessment. 60573
When the tax commissioner requires or permits an alternative 60574
method under division (E)(2) of this section, the tax commissioner 60575
shall cause a written notice to that effect to be delivered to any 60576
municipal corporation that would be affected by application of the 60577
alternative method. Nothing in this division shall be construed to 60578
extend any statute of limitations under this chapter. 60579

(F)(1) The tax commissioner may adopt rules providing for the 60580
combination of adjusted federal taxable incomes of taxpayers 60581
satisfying the ownership or control requirements of section 60582
5733.052 of the Revised Code if the tax commissioner finds that 60583
such combinations are necessary to properly reflect adjusted 60584
federal taxable income, Ohio net income, or the portion of Ohio 60585
net income to be taxable by municipal corporations. 60586

(2) A taxpayer satisfying the ownership or control 60587
requirements of section 5733.052 of the Revised Code with respect 60588
to one or more other taxpayers may not combine their adjusted 60589
federal taxable incomes for the purposes of this section unless 60590
rules are adopted under division (F)(1) of this section allowing 60591
such a combination or the tax commissioner finds that such a 60592

combination is necessary to properly reflect the taxpayers' 60593
adjusted federal taxable incomes, Ohio net incomes, or the portion 60594
of Ohio net incomes to be subject to taxation within a municipal 60595
corporation. 60596

Sec. 5745.04. (A) As used in this section, "combined tax 60597
liability" means the total of a taxpayer's income tax liabilities 60598
to all municipal corporations in this state for a taxable year. 60599

(B) Beginning with its taxable year beginning in 2003, each 60600
taxpayer shall file a declaration of estimated tax report with, 60601
and remit estimated taxes to, the tax commissioner, payable to the 60602
treasurer of state, at the times and in the amounts prescribed in 60603
divisions (B)(1) to (4) of this section. This division also 60604
applies to a taxpayer having a taxable year consisting of fewer 60605
than twelve months, at least one of which is in 2002, that ends 60606
before January 1, 2003. The first taxable year a taxpayer is 60607
subject to this chapter, the estimated taxes the taxpayer is 60608
required to remit under this section shall be based solely on the 60609
current taxable year and not on the liability for the preceding 60610
taxable year. 60611

(1) Not less than twenty-five per cent of the combined tax 60612
liability for the preceding taxable year or twenty per cent of the 60613
combined tax liability for the current taxable year shall have 60614
been remitted not later than the fifteenth day of the fourth month 60615
after the end of the preceding taxable year. 60616

(2) Not less than fifty per cent of the combined tax 60617
liability for the preceding taxable year or forty per cent of the 60618
combined tax liability for the current taxable year shall have 60619
been remitted not later than the fifteenth day of the sixth month 60620
after the end of the preceding taxable year. 60621

(3) Not less than seventy-five per cent of the combined tax 60622
liability for the preceding taxable year or sixty per cent of the 60623

combined tax liability for the current taxable year shall have 60624
been remitted not later than the fifteenth day of the ninth month 60625
after the end of the preceding taxable year. 60626

(4) Not less than one hundred per cent of the combined tax 60627
liability for the preceding taxable year or eighty per cent of the 60628
combined tax liability for the current taxable year shall have 60629
been remitted not later than the fifteenth day of the twelfth 60630
month after the end of the preceding taxable year. 60631

(C) Each taxpayer shall report on the declaration of 60632
estimated tax report the portion of the remittance that the 60633
taxpayer estimates that it owes to each municipal corporation for 60634
the taxable year. 60635

(D) Upon receiving a declaration of estimated tax report and 60636
remittance of estimated taxes under this section, the tax 60637
commissioner shall immediately forward to the treasurer of state 60638
such remittance. The treasurer of state shall credit ninety-eight 60639
and one-half per cent of the remittance to the municipal income 60640
tax fund and credit the remainder to the municipal income tax 60641
administrative fund. 60642

(E) If any remittance of estimated taxes is for one thousand 60643
dollars or more, the taxpayer shall make the remittance by 60644
electronic funds transfer as prescribed by section 5745.04 of the 60645
Revised Code. 60646

(F) Notwithstanding section 5745.08 or 5745.09 of the Revised 60647
Code, no penalty or interest shall be imposed on a taxpayer if the 60648
declaration of estimated tax report is properly filed, and the 60649
estimated tax is paid, within the time prescribed by division (B) 60650
of this section. 60651

Sec. 5745.042. (A) As used in this section: 60652

(1) "Intangible expenses and costs" means expenses, losses, 60653

and costs for, related to, or in connection with, the direct or 60654
indirect acquisition, use, maintenance, management, ownership, 60655
sale, exchange, or any other direct or indirect disposition of 60656
intangible property to the extent such amounts are allowed as 60657
deductions or costs in determining taxable income before operating 60658
loss deduction and special deductions for the taxable year under 60659
the Internal Revenue Code. Such expenses and costs include losses 60660
related to, or incurred in connection with, factoring 60661
transactions, discounting transactions, royalty, patent, 60662
technical, copyright, and licensing fees, and other similar 60663
expenses and costs. 60664

(2) "Interest expenses and costs" include amounts directly or 60665
indirectly allowed as deductions under section 163 of the Internal 60666
Revenue Code for purposes of determining taxable income. 60667

(3) "Related member" has the same meaning as in section 60668
5733.042 of the Revised Code. 60669

(B) Except as otherwise provided in section 5745.044 of the 60670
Revised Code, for taxable years beginning on or after January 1, 60671
2004, in computing adjusted federal taxable income under division 60672
(H)(4) of section 5745.01 of the Revised Code, a taxpayer shall 60673
add interest expenses and costs and intangible expenses and costs 60674
directly or indirectly paid, accrued, or incurred to, or in 60675
connection with, one or more direct or indirect transactions with 60676
one or more related members. The taxpayer shall make the 60677
adjustment required under this division in accordance with the 60678
principles and concepts set forth in section 5733.057 of the 60679
Revised Code. 60680

(C)(1) Division (B) of this section does not apply to any 60681
portion of interest expenses and costs and intangible expenses and 60682
costs for which the taxpayer can establish by a preponderance of 60683
the evidence that: 60684

(a) The related member during the same taxable year directly or indirectly paid, accrued, or incurred such portion to a person who is not a related member, and during the six-year period commencing three years prior to the first day of the taxpayer's taxable year the person or the person's related member did not pay, accrue, or incur all or any portion, amount, or similar portion of such expenses or costs to the taxpayer or to any related member of the taxpayer; and 60685
60686
60687
60688
60689
60690
60691
60692

(b) The transaction giving rise to the interest expenses and costs or the intangible expenses and costs between the taxpayer and the related member did not have as a principal purpose the avoidance of any portion of the tax due by the taxpayer. 60693
60694
60695
60696

(2) A taxpayer shall not be required to make any adjustment required under division (B) of this section if the increased tax, if any, attributable to such adjustment would have been avoided had the taxpayer, the related member, and any other related members to whom the taxpayer's related member pays, accrues, or incurs the expenses and costs had filed a consolidated municipal income tax return. 60697
60698
60699
60700
60701
60702
60703

(D) If a taxpayer required to make an adjustment under division (B) of this section fails to make the adjustment and pay the additional tax, if any, attributable to such adjustment within one year after the taxpayer files the municipal income tax report, a penalty shall be imposed equal to twice the interest charged under section 5745.07 of the Revised Code. The penalty imposed under this division is in addition to all other interest, penalties, and other charges imposed under this chapter. 60704
60705
60706
60707
60708
60709
60710
60711

(E) The tax commissioner may waive, abate, modify, or refund, with interest, all or any portion of a penalty imposed under division (D) of this section if the taxpayer establishes beyond a reasonable doubt that any failure to fully comply with this 60712
60713
60714
60715

section was not an attempt to avoid any portion of the tax due 60716
under this chapter. 60717

(F)(1) As used in this division, "tax difference" means the 60718
difference between the tax imposed on a taxpayer under section 60719
5733.06 of the Revised Code and the amount of tax attributable to 60720
the adjustment required under division (B) of this section that 60721
the taxpayer pays within one year from the date prescribed for 60722
payment. 60723

(2) The penalty created under division (D) of this section 60724
does not apply if the tax difference: 60725

(a) Is less than ten per cent of the tax imposed under this 60726
chapter; and 60727

(b) Is less than fifty thousand dollars. 60728

(G) Nothing in this section shall be construed as requiring a 60729
taxpayer to add interest expenses and costs and intangible 60730
expenses and costs to federal taxable income more than once in any 60731
taxable year. 60732

Sec. 5745.044. (A)(1) As used in this section, "federal 60733
income tax return" does not include any return filed for purposes 60734
of reporting withholding taxes, providing information rather than 60735
reporting income tax liability, or claiming the benefits of a tax 60736
treaty between the United States and another government. 60737

(2) "Federal income tax" does not include withholding taxes. 60738

(3) "Related member" has the same meaning as in section 60739
5733.042 of the Revised Code. 60740

(B) The adjustments required under division (B) of section 60741
5745.042 of the Revised Code for interest expenses and costs and 60742
intangible expenses and costs paid to a related member do not 60743
apply to a C corporation for the taxable year if the C corporation 60744
establishes all of the following by clear and convincing evidence: 60745

(1) The corporation paid the expenses and costs to the related member either directly or through a related member that did not charge the corporation a fee; 60746
60747
60748

(2) The expenses and costs were paid to a related member that, for the six-year period beginning three years prior to the payment, was not subject to federal income tax with respect to the payment and was not required to file a federal income tax return with the internal revenue service for purposes of reporting the payment; 60749
60750
60751
60752
60753
60754

(3) During the six-year period beginning three years prior to the payment, the related member did not directly or indirectly remit any portion of the payment to any other related member that during any portion of the six-year period was subject to federal income tax with respect to the payment and was required to file a federal income tax return with the internal revenue service for purposes of reporting the payment; 60755
60756
60757
60758
60759
60760
60761

(4) In calculating its federal income tax for the taxable year in which the payment occurred, the corporation is allowed to deduct the payment under an advanced pricing agreement between the corporation and the internal revenue service, it has satisfied the documentation requirements of sections 482 and 6662(e) of the Internal Revenue Code, or it has complied with section 482 of the Internal Revenue Code; and 60762
60763
60764
60765
60766
60767
60768

(5) The transaction giving rise to the payment did not have as a principal purpose the avoidance of any portion of the tax due under this chapter. 60769
60770
60771

(C) A corporation claiming that the adjustments required under division (B) of section 5745.042 of the Revised Code do not apply to it must refute by clear and convincing evidence any reasonable conclusion of the tax commissioner that any of the doctrines set forth in section 5703.56 of the Revised Code should 60772
60773
60774
60775
60776

apply. 60777

(D) If a corporation makes a payment to a related member and the payment is processed or paid through another related member as described in division (B)(1) of this section, this section applies only to the corporation's pro rata share of the total payments made by all such related members during the taxable year, unless the corporation establishes by clear and convincing evidence that its actual payment to the related member was more than its pro rata share. 60778
60779
60780
60781
60782
60783
60784
60785

(E) Any adjustments made by the internal revenue service with respect to any related member of the corporation under an advanced pricing agreement or section 482 of the Internal Revenue Code shall be presumed to be adjustments properly attributed to the corporation, unless the corporation establishes by clear and convincing evidence that the adjustment should be attributed, in whole or in part, to another person. 60786
60787
60788
60789
60790
60791
60792

(F) If any corporation claims the benefit provided under division (B) of this section and is not entitled to such benefit, any adjustment required by section 5745.042 of the Revised Code shall be increased by an amount equal to twice the amount of the adjustment, unless the adjustment was made under an advanced pricing agreement. 60793
60794
60795
60796
60797
60798

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. 60799
60800
60801
60802
60803

As used in this chapter: 60804

(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the 60805
60806

Internal Revenue Code, adjusted as provided in this section: 60807

(1) Add interest or dividends on obligations or securities of 60808
any state or of any political subdivision or authority of any 60809
state, other than this state and its subdivisions and authorities. 60810

(2) Add interest or dividends on obligations of any 60811
authority, commission, instrumentality, territory, or possession 60812
of the United States to the extent that the interest or dividends 60813
are exempt from federal income taxes but not from state income 60814
taxes. 60815

(3) Deduct interest or dividends on obligations of the United 60816
States and its territories and possessions or of any authority, 60817
commission, or instrumentality of the United States to the extent 60818
that the interest or dividends are included in federal adjusted 60819
gross income but exempt from state income taxes under the laws of 60820
the United States. 60821

(4) Deduct disability and survivor's benefits to the extent 60822
included in federal adjusted gross income. 60823

(5) Deduct benefits under Title II of the Social Security Act 60824
and tier 1 railroad retirement benefits to the extent included in 60825
federal adjusted gross income under section 86 of the Internal 60826
Revenue Code. 60827

(6) In the case of a taxpayer who is a beneficiary of a trust 60828
that makes an accumulation distribution as defined in section 665 60829
of the Internal Revenue Code, add, for the beneficiary's taxable 60830
years beginning before 2002 ~~or after 2004~~, the portion, if any, of 60831
such distribution that does not exceed the undistributed net 60832
income of the trust for the three taxable years preceding the 60833
taxable year in which the distribution is made to the extent that 60834
the portion was not included in the trust's taxable income for any 60835
of the trust's taxable years beginning in or after 2002, ~~2003, or~~ 60836
~~2004~~. "Undistributed net income of a trust" means the taxable 60837

income of the trust increased by (a)(i) the additions to adjusted 60838
gross income required under division (A) of this section and (ii) 60839
the personal exemptions allowed to the trust pursuant to section 60840
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 60841
deductions to adjusted gross income required under division (A) of 60842
this section, (ii) the amount of federal income taxes attributable 60843
to such income, and (iii) the amount of taxable income that has 60844
been included in the adjusted gross income of a beneficiary by 60845
reason of a prior accumulation distribution. Any undistributed net 60846
income included in the adjusted gross income of a beneficiary 60847
shall reduce the undistributed net income of the trust commencing 60848
with the earliest years of the accumulation period. 60849

(7) Deduct the amount of wages and salaries, if any, not 60850
otherwise allowable as a deduction but that would have been 60851
allowable as a deduction in computing federal adjusted gross 60852
income for the taxable year, had the targeted jobs credit allowed 60853
and determined under sections 38, 51, and 52 of the Internal 60854
Revenue Code not been in effect. 60855

(8) Deduct any interest or interest equivalent on public 60856
obligations and purchase obligations to the extent that the 60857
interest or interest equivalent is included in federal adjusted 60858
gross income. 60859

(9) Add any loss or deduct any gain resulting from the sale, 60860
exchange, or other disposition of public obligations to the extent 60861
that the loss has been deducted or the gain has been included in 60862
computing federal adjusted gross income. 60863

(10) Deduct or add amounts, as provided under section 5747.70 60864
of the Revised Code, related to contributions to variable college 60865
savings program accounts made or tuition credits purchased 60866
pursuant to Chapter 3334. of the Revised Code. 60867

(11)(a) Deduct, to the extent not otherwise allowable as a 60868

deduction or exclusion in computing federal or Ohio adjusted gross 60869
income for the taxable year, the amount the taxpayer paid during 60870
the taxable year for medical care insurance and qualified 60871
long-term care insurance for the taxpayer, the taxpayer's spouse, 60872
and dependents. No deduction for medical care insurance under 60873
division (A)(11) of this section shall be allowed either to any 60874
taxpayer who is eligible to participate in any subsidized health 60875
plan maintained by any employer of the taxpayer or of the 60876
taxpayer's spouse, or to any taxpayer who is entitled to, or on 60877
application would be entitled to, benefits under part A of Title 60878
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 60879
301, as amended. For the purposes of division (A)(11)(a) of this 60880
section, "subsidized health plan" means a health plan for which 60881
the employer pays any portion of the plan's cost. The deduction 60882
allowed under division (A)(11)(a) of this section shall be the net 60883
of any related premium refunds, related premium reimbursements, or 60884
related insurance premium dividends received during the taxable 60885
year. 60886

(b) Deduct, to the extent not otherwise deducted or excluded 60887
in computing federal or Ohio adjusted gross income during the 60888
taxable year, the amount the taxpayer paid during the taxable 60889
year, not compensated for by any insurance or otherwise, for 60890
medical care of the taxpayer, the taxpayer's spouse, and 60891
dependents, to the extent the expenses exceed seven and one-half 60892
per cent of the taxpayer's federal adjusted gross income. 60893

(c) For purposes of division (A)(11) of this section, 60894
"medical care" has the meaning given in section 213 of the 60895
Internal Revenue Code, subject to the special rules, limitations, 60896
and exclusions set forth therein, and "qualified long-term care" 60897
has the same meaning given in section 7702(B)(b) of the Internal 60898
Revenue Code. 60899

(12)(a) Deduct any amount included in federal adjusted gross 60900

income solely because the amount represents a reimbursement or 60901
refund of expenses that in any year the taxpayer had deducted as 60902
an itemized deduction pursuant to section 63 of the Internal 60903
Revenue Code and applicable United States department of the 60904
treasury regulations. The deduction otherwise allowed under 60905
division (A)(12)(a) of this section shall be reduced to the extent 60906
the reimbursement is attributable to an amount the taxpayer 60907
deducted under this section in any taxable year. 60908

(b) Add any amount not otherwise included in Ohio adjusted 60909
gross income for any taxable year to the extent that the amount is 60910
attributable to the recovery during the taxable year of any amount 60911
deducted or excluded in computing federal or Ohio adjusted gross 60912
income in any taxable year. 60913

(13) Deduct any portion of the deduction described in section 60914
1341(a)(2) of the Internal Revenue Code, for repaying previously 60915
reported income received under a claim of right, that meets both 60916
of the following requirements: 60917

(a) It is allowable for repayment of an item that was 60918
included in the taxpayer's adjusted gross income for a prior 60919
taxable year and did not qualify for a credit under division (A) 60920
or (B) of section 5747.05 of the Revised Code for that year; 60921

(b) It does not otherwise reduce the taxpayer's adjusted 60922
gross income for the current or any other taxable year. 60923

(14) Deduct an amount equal to the deposits made to, and net 60924
investment earnings of, a medical savings account during the 60925
taxable year, in accordance with section 3924.66 of the Revised 60926
Code. The deduction allowed by division (A)(14) of this section 60927
does not apply to medical savings account deposits and earnings 60928
otherwise deducted or excluded for the current or any other 60929
taxable year from the taxpayer's federal adjusted gross income. 60930

(15)(a) Add an amount equal to the funds withdrawn from a 60931

medical savings account during the taxable year, and the net 60932
investment earnings on those funds, when the funds withdrawn were 60933
used for any purpose other than to reimburse an account holder 60934
for, or to pay, eligible medical expenses, in accordance with 60935
section 3924.66 of the Revised Code; 60936

(b) Add the amounts distributed from a medical savings 60937
account under division (A)(2) of section 3924.68 of the Revised 60938
Code during the taxable year. 60939

(16) Add any amount claimed as a credit under section 60940
5747.059 of the Revised Code to the extent that such amount 60941
satisfies either of the following: 60942

(a) The amount was deducted or excluded from the computation 60943
of the taxpayer's federal adjusted gross income as required to be 60944
reported for the taxpayer's taxable year under the Internal 60945
Revenue Code; 60946

(b) The amount resulted in a reduction of the taxpayer's 60947
federal adjusted gross income as required to be reported for any 60948
of the taxpayer's taxable years under the Internal Revenue Code. 60949

(17) Deduct the amount contributed by the taxpayer to an 60950
individual development account program established by a county 60951
department of job and family services pursuant to sections 329.11 60952
to 329.14 of the Revised Code for the purpose of matching funds 60953
deposited by program participants. On request of the tax 60954
commissioner, the taxpayer shall provide any information that, in 60955
the tax commissioner's opinion, is necessary to establish the 60956
amount deducted under division (A)(17) of this section. 60957

(18) Beginning in taxable year 2001, if the taxpayer is 60958
married and files a joint return and the combined federal adjusted 60959
gross income of the taxpayer and the taxpayer's spouse for the 60960
taxable year does not exceed one hundred thousand dollars, or if 60961
the taxpayer is single and has a federal adjusted gross income for 60962

the taxable year not exceeding fifty thousand dollars, deduct 60963
amounts paid during the taxable year for qualified tuition and 60964
fees paid to an eligible institution for the taxpayer, the 60965
taxpayer's spouse, or any dependent of the taxpayer, who is a 60966
resident of this state and is enrolled in or attending a program 60967
that culminates in a degree or diploma at an eligible institution. 60968
The deduction may be claimed only to the extent that qualified 60969
tuition and fees are not otherwise deducted or excluded for any 60970
taxable year from federal or Ohio adjusted gross income. The 60971
deduction may not be claimed for educational expenses for which 60972
the taxpayer claims a credit under section 5747.27 of the Revised 60973
Code. 60974

(19) Add any reimbursement received during the taxable year 60975
of any amount the taxpayer deducted under division (A)(18) of this 60976
section in any previous taxable year to the extent the amount is 60977
not otherwise included in Ohio adjusted gross income. 60978

(20)(a) Add five-sixths of the amount of depreciation expense 60979
allowed by subsection (k) of section 168 of the Internal Revenue 60980
Code, including the taxpayer's proportionate or distributive share 60981
of the amount of depreciation expense allowed by that subsection 60982
to a pass-through entity in which the taxpayer has a direct or 60983
indirect ownership interest. The tax commissioner, under 60984
procedures established by the commissioner, may waive the add-back 60985
related to a pass-through entity if the taxpayer owns, directly or 60986
indirectly, less than five per cent of the pass-through entity. 60987

(b) Nothing in division (A)(20) of this section shall be 60988
construed to adjust or modify the adjusted basis of any asset. 60989

(c) To the extent the add-back required under division 60990
(A)(20)(a) of this section is attributable to property generating 60991
nonbusiness income or loss allocated under section 5747.20 of the 60992
Revised Code, the add-back shall be situated to the same location 60993
as the nonbusiness income or loss generated by the property for 60994

the purpose of determining the credit under division (A) of 60995
section 5747.05 of the Revised Code. Otherwise, the add-back shall 60996
be apportioned, subject to one or more of the four alternative 60997
methods of apportionment enumerated in section 5747.21 of the 60998
Revised Code. 60999

(21)(a) If the taxpayer was required to add an amount under 61000
division (A)(20)(a) of this section for a taxable year, deduct 61001
one-fifth of the amount so added for each of the five succeeding 61002
taxable years. 61003

(b) If the amount deducted under division (A)(21)(a) of this 61004
section is attributable to an add-back allocated under division 61005
(A)(20)(c) of this section, the amount deducted shall be sitused 61006
to the same location. Otherwise, the add-back shall be apportioned 61007
using the apportionment factors for the taxable year in which the 61008
deduction is taken, subject to one or more of the four alternative 61009
methods of apportionment enumerated in section 5747.21 of the 61010
Revised Code. 61011

(B) "Business income" means income, including gain or loss, 61012
arising from transactions, activities, and sources in the regular 61013
course of a trade or business and includes income, gain, or loss 61014
from real property, tangible property, and intangible property if 61015
the acquisition, rental, management, and disposition of the 61016
property constitute integral parts of the regular course of a 61017
trade or business operation. "Business income" includes income, 61018
including gain or loss, from a partial or complete liquidation of 61019
a business, including, but not limited to, gain or loss from the 61020
sale or other disposition of goodwill. 61021

(C) "Nonbusiness income" means all income other than business 61022
income and may include, but is not limited to, compensation, rents 61023
and royalties from real or tangible personal property, capital 61024
gains, interest, dividends and distributions, patent or copyright 61025
royalties, or lottery winnings, prizes, and awards. 61026

(D) "Compensation" means any form of remuneration paid to an employee for personal services. 61027
61028

(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. 61029
61030
61031

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December. 61032
61033

(G) "Individual" means any natural person. 61034

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 61035
61036

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in or after 2002, ~~2003, or 2004~~: 61037
61038
61039

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code; 61040
61041

(2) The estate of a decedent who at the time of death, or of a debtor who at the time of commencement of a bankruptcy proceeding, 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. 61042
61043
61044
61045
61046
61047

(3) 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. 61048
61049
61050

For the purposes of division (I)(3) of this section: 61051

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or 61052
61053
61054
61055
61056

indirectly, to the trust by any of the following: 61057

(i) ~~A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(c)(i) or (ii) of this section~~ The will of an individual who was domiciled in this state at the time of the individual's death for purposes of the taxes levied under Chapter 5731. of the Revised Code, if the trust is a testamentary trust; 61058
61059
61060
61061
61062
61063
61064

(ii) ~~A person who was~~ lifetime transfer by an individual domiciled in this state for the purposes of this chapter ~~when the person directly or indirectly transferred assets to an irrevocable trust, but only if~~ at the time of transfer to a trust that was irrevocable at the time of transfer, and at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year; 61065
61066
61067
61068
61069
61070
61071
61072

(iii) ~~A person who was~~ lifetime transfer by an individual domiciled in this state for the purposes of this chapter ~~when~~ at the time the trust document or instrument or part of the trust document or instrument became irrevocable, but only if to a trust that was not irrevocable at the time of transfer, and at least one of the trust's qualifying beneficiaries is ~~a resident~~ domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. 61073
61074
61075
61076
61077
61078
61079
61080

(iv) A lifetime transfer by an individual domiciled in this state for the purposes of this chapter at the time of the transfer if all of the following three conditions are met: (I) the trust is an inter vivos trust that became irrevocable only upon the death of the individual, and the individual was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code; (II) the assets were transferred to the trust by will or by any other means including, 61081
61082
61083
61084
61085
61086
61087
61088

but not limited to, lifetime gift, beneficiary designation, or any 61089
other contractual arrangement taking effect during the 61090
individual's life or at the individual's death; and (III) at least 61091
one of the trust's qualifying beneficiaries is domiciled in this 61092
state for purposes of this chapter during all or some portion of 61093
the trust's current taxable year; 61094

(v) A person, a court, or a governmental entity or 61095
instrumentality on account of the death of a decedent domiciled in 61096
this state at the time of death for purposes of the taxes levied 61097
under Chapter 5731. of the Revised Code and at least one of the 61098
trust's qualifying beneficiaries is domiciled in this state for 61099
purposes of this chapter during all or some portion of the trust's 61100
current taxable year. 61101

For purposes of division (I)(3) of this section, a transfer 61102
by a court or other governmental entity or by any other person on 61103
behalf of or for any individual is a transfer by that individual, 61104
and "contractual arrangements" includes life insurance policies, 61105
annuities, and retirement plan arrangements. 61106

(b) A trust is irrevocable to the extent that the transferor 61107
is not considered to be the owner of the net assets of the trust 61108
under sections 671 to 678 of the Internal Revenue Code. 61109

(c) With respect to a trust other than a charitable lead 61110
trust, "qualifying beneficiary" has the same meaning as "potential 61111
current beneficiary" as defined in section 1361(e)(2) of the 61112
Internal Revenue Code, and with respect to a charitable lead trust 61113
"qualifying beneficiary" is any current, future, or contingent 61114
beneficiary, but with respect to any trust "qualifying 61115
beneficiary" excludes a person or a governmental entity or 61116
instrumentality to any of which a contribution would qualify for 61117
the charitable deduction under section 170 of the Internal Revenue 61118
Code. 61119

(d) For the purposes of division (I)(3)(a) of this section, 61120
the extent to which a trust consists directly or indirectly, in 61121
whole or in part, of assets, net of any related liabilities, that 61122
were transferred directly or indirectly, in whole or part, to the 61123
trust by any of the sources enumerated in that division shall be 61124
ascertained by multiplying the fair market value of the trust's 61125
assets, net of related liabilities, by the qualifying ratio, which 61126
shall be computed as follows: 61127

(i) The first time the trust receives assets, the numerator 61128
of the qualifying ratio is the fair market value of those assets 61129
at that time, net of any related liabilities, from sources 61130
enumerated in division (I)(3)(a) of this section. The denominator 61131
of the qualifying ratio is the fair market value of all the 61132
trust's assets at that time, net of any related liabilities. 61133

(ii) Each subsequent time the trust receives assets, a 61134
revised qualifying ratio shall be computed. The numerator of the 61135
revised qualifying ratio is the sum of (1) the fair market value 61136
of the trust's assets immediately prior to the subsequent 61137
transfer, net of any related liabilities, multiplied by the 61138
qualifying ratio last computed without regard to the subsequent 61139
transfer, and (2) the fair market value of the subsequently 61140
transferred assets at the time transferred, net of any related 61141
liabilities, from sources enumerated in division (I)(3)(a) of this 61142
section. The denominator of the revised qualifying ratio is the 61143
fair market value of all the trust's assets immediately after the 61144
subsequent transfer, net of any related liabilities. 61145

~~(e) For the purposes of division (I)(3)(a)(i) of this 61146
section: 61147~~

~~(i) A trust is described in division (I)(3)(e)(i) of this 61148
section if the trust is a testamentary trust and the testator of 61149
that testamentary trust was domiciled in this state at the time of 61150~~

~~the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.~~ 61151
61152

~~(ii) A trust is described in division (I)(3)(c)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.~~ 61153
61154
61155
61156
61157
61158
61159

~~(f) For the purposes of division (I)(3)(c)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:~~ 61160
61161
61162
61163

~~(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.~~ 61164
61165
61166
61167
61168
61169

~~(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.~~ 61170
61171
61172
61173
61174
61175
61176

~~(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for~~ 61177
61178
61179
61180
61181

~~purposes of the taxes levied under Chapter 5731. of the Revised Code.~~ 61182
61183

~~(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter.~~ 61184
61185
61186
61187
61188

~~(v) The transfer is made to a trust on account of the will of a testator.~~ 61189
61190

~~(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.~~ 61191
61192
61193
61194
61195
61196

~~(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.~~ 61197
61198

(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. 61199
61200
61201
61202

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code. 61203
61204

(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. 61205
61206
61207
61208

(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 61209
61210
61211

pursuant to this chapter. 61212

(N) "Taxpayer" means any person subject to the tax imposed by 61213
section 5747.02 of the Revised Code or any pass-through entity 61214
that makes the election under division (D) of section 5747.08 of 61215
the Revised Code. 61216

(O) "Dependents" means dependents as defined in the Internal 61217
Revenue Code and as claimed in the taxpayer's federal income tax 61218
return for the taxable year or which the taxpayer would have been 61219
permitted to claim had the taxpayer filed a federal income tax 61220
return. 61221

(P) "Principal county of employment" means, in the case of a 61222
nonresident, the county within the state in which a taxpayer 61223
performs services for an employer or, if those services are 61224
performed in more than one county, the county in which the major 61225
portion of the services are performed. 61226

(Q) As used in sections 5747.50 to 5747.55 of the Revised 61227
Code: 61228

(1) "Subdivision" means any county, municipal corporation, 61229
park district, or township. 61230

(2) "Essential local government purposes" includes all 61231
functions that any subdivision is required by general law to 61232
exercise, including like functions that are exercised under a 61233
charter adopted pursuant to the Ohio Constitution. 61234

(R) "Overpayment" means any amount already paid that exceeds 61235
the figure determined to be the correct amount of the tax. 61236

(S) "Taxable income" or "Ohio taxable income" applies only to 61237
estates and trusts, and means federal taxable income, as defined 61238
and used in the Internal Revenue Code, adjusted as follows: 61239

(1) Add interest or dividends, net of ordinary, necessary, 61240
and reasonable expenses not deducted in computing federal taxable 61241

income, on obligations or securities of any state or of any 61242
political subdivision or authority of any state, other than this 61243
state and its subdivisions and authorities, but only to the extent 61244
that such net amount is not otherwise includible in Ohio taxable 61245
income and is described in either division (S)(1)(a) or (b) of 61246
this section: 61247

(a) The net amount is not attributable to the S portion of an 61248
electing small business trust and has not been distributed to 61249
beneficiaries for the taxable year; 61250

(b) The net amount is attributable to the S portion of an 61251
electing small business trust for the taxable year. 61252

(2) Add interest or dividends, net of ordinary, necessary, 61253
and reasonable expenses not deducted in computing federal taxable 61254
income, on obligations of any authority, commission, 61255
instrumentality, territory, or possession of the United States to 61256
the extent that the interest or dividends are exempt from federal 61257
income taxes but not from state income taxes, but only to the 61258
extent that such net amount is not otherwise includible in Ohio 61259
taxable income and is described in either division (S)(1)(a) or 61260
(b) of this section; 61261

(3) Add the amount of personal exemption allowed to the 61262
estate pursuant to section 642(b) of the Internal Revenue Code; 61263

(4) Deduct interest or dividends, net of related expenses 61264
deducted in computing federal taxable income, on obligations of 61265
the United States and its territories and possessions or of any 61266
authority, commission, or instrumentality of the United States to 61267
the extent that the interest or dividends are exempt from state 61268
taxes under the laws of the United States, but only to the extent 61269
that such amount is included in federal taxable income and is 61270
described in either division (S)(1)(a) or (b) of this section; 61271

(5) Deduct the amount of wages and salaries, if any, not 61272

otherwise allowable as a deduction but that would have been 61273
allowable as a deduction in computing federal taxable income for 61274
the taxable year, had the targeted jobs credit allowed under 61275
sections 38, 51, and 52 of the Internal Revenue Code not been in 61276
effect, but only to the extent such amount relates either to 61277
income included in federal taxable income for the taxable year or 61278
to income of the S portion of an electing small business trust for 61279
the taxable year; 61280

(6) Deduct any interest or interest equivalent, net of 61281
related expenses deducted in computing federal taxable income, on 61282
public obligations and purchase obligations, but only to the 61283
extent that such net amount relates either to income included in 61284
federal taxable income for the taxable year or to income of the S 61285
portion of an electing small business trust for the taxable year; 61286

(7) Add any loss or deduct any gain resulting from sale, 61287
exchange, or other disposition of public obligations to the extent 61288
that such loss has been deducted or such gain has been included in 61289
computing either federal taxable income or income of the S portion 61290
of an electing small business trust for the taxable year; 61291

(8) Except in the case of the final return of an estate, add 61292
any amount deducted by the taxpayer on both its Ohio estate tax 61293
return pursuant to section 5731.14 of the Revised Code, and on its 61294
federal income tax return in determining federal taxable income; 61295

(9)(a) Deduct any amount included in federal taxable income 61296
solely because the amount represents a reimbursement or refund of 61297
expenses that in a previous year the decedent had deducted as an 61298
itemized deduction pursuant to section 63 of the Internal Revenue 61299
Code and applicable treasury regulations. The deduction otherwise 61300
allowed under division (S)(9)(a) of this section shall be reduced 61301
to the extent the reimbursement is attributable to an amount the 61302
taxpayer or decedent deducted under this section in any taxable 61303
year. 61304

(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, but only to the extent such amount has not been distributed to beneficiaries for the 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, net of related expenses deducted in computing federal taxable income, that a trust is required to

report as farm income on its federal income tax return, but only 61335
if the assets of the trust include at least ten acres of land 61336
satisfying the definition of "land devoted exclusively to 61337
agricultural use" under section 5713.30 of the Revised Code, 61338
regardless of whether the land is valued for tax purposes as such 61339
land under sections 5713.30 to 5713.38 of the Revised Code. If the 61340
trust is a pass-through entity investor, section 5747.231 of the 61341
Revised Code applies in ascertaining if the trust is eligible to 61342
claim the deduction provided by division (S)(12) of this section 61343
in connection with the pass-through entity's farm income. 61344

Except for farm income attributable to the S portion of an 61345
electing small business trust, the deduction provided by division 61346
(S)(12) of this section is allowed only to the extent that the 61347
trust has not distributed such farm income. Division (S)(12) of 61348
this section applies only to taxable years of a trust beginning in 61349
or after 2002, 2003, or 2004. 61350

(13) Add the net amount of income described in section 641(c) 61351
of the Internal Revenue Code to the extent that amount is not 61352
included in federal taxable income. 61353

(14) Add or deduct the amount the taxpayer would be required 61354
to add or deduct under division (A)(20) or (21) of this section if 61355
the taxpayer's Ohio taxable income were computed in the same 61356
manner as an individual's Ohio adjusted gross income is computed 61357
under this section. In the case of a trust, division (S)(14) of 61358
this section applies only to any of the trust's taxable years 61359
beginning in or after 2002, 2003, or 2004. 61360

(T) "School district income" and "school district income tax" 61361
have the same meanings as in section 5748.01 of the Revised Code. 61362

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 61363
of this section, "public obligations," "purchase obligations," and 61364
"interest or interest equivalent" have the same meanings as in 61365

section 5709.76 of the Revised Code. 61366

(V) "Limited liability company" means any limited liability 61367
company formed under Chapter 1705. of the Revised Code or under 61368
the laws of any other state. 61369

(W) "Pass-through entity investor" means any person who, 61370
during any portion of a taxable year of a pass-through entity, is 61371
a partner, member, shareholder, or equity investor in that 61372
pass-through entity. 61373

(X) "Banking day" has the same meaning as in section 1304.01 61374
of the Revised Code. 61375

(Y) "Month" means a calendar month. 61376

(Z) "Quarter" means the first three months, the second three 61377
months, the third three months, or the last three months of the 61378
taxpayer's taxable year. 61379

(AA)(1) "Eligible institution" means a state university or 61380
state institution of higher education as defined in section 61381
3345.011 of the Revised Code, or a private, nonprofit college, 61382
university, or other post-secondary institution located in this 61383
state that possesses a certificate of authorization issued by the 61384
Ohio board of regents pursuant to Chapter 1713. of the Revised 61385
Code or a certificate of registration issued by the state board of 61386
proprietary school registration under Chapter 3332. of the Revised 61387
Code. 61388

(2) "Qualified tuition and fees" means tuition and fees 61389
imposed by an eligible institution as a condition of enrollment or 61390
attendance, not exceeding two thousand five hundred dollars in 61391
each of the individual's first two years of post-secondary 61392
education. If the individual is a part-time student, "qualified 61393
tuition and fees" includes tuition and fees paid for the academic 61394
equivalent of the first two years of post-secondary education 61395
during a maximum of five taxable years, not exceeding a total of 61396

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

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

(2) "Qualifying trust amount" of a trust means capital gains
and losses from the sale, exchange, or other disposition of equity
or ownership interests in, or debt obligations of, a qualifying
investee to the extent included in the trust's Ohio taxable
income, but only if the following requirements are satisfied:

(a) The book value of the qualifying investee's physical
assets in this state and everywhere, as of the last day of the
qualifying investee's fiscal or calendar year ending immediately
prior to the date on which the trust recognizes the gain or loss,
is available to the trust.

(b) The requirements of section 5747.011 of the Revised Code
are satisfied for the trust's taxable year in which the trust
recognizes the gain or loss.

Any gain or loss that is not a qualifying trust amount is
modified business income, qualifying investment income, or
modified nonbusiness income, as the case may be.

(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (BB)(4)(a) to (c) of this section:

(a) 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, multiplied by the sum of the following amounts:

(i) The trust's modified business income;

(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect

to more than one qualifying investee, the amount described in 61458
division (BB)(4)(b) of this section shall equal the sum of the 61459
products so computed for each such qualifying investee. 61460

(c)(i) With respect to a trust or portion of a trust that is 61461
a resident as ascertained in accordance with division (I)(3)(d) of 61462
this section, its modified nonbusiness income. 61463

(ii) With respect to a trust or portion of a trust that is 61464
not a resident as ascertained in accordance with division 61465
(I)(3)(d) of this section, the amount of its modified nonbusiness 61466
income satisfying the descriptions in divisions (B)(2) to (5) of 61467
section 5747.20 of the Revised Code. 61468

If the allocation and apportionment of a trust's income under 61469
divisions (BB)(4)(a) and (c) of this section do not fairly 61470
represent the modified Ohio taxable income of the trust in this 61471
state, the alternative methods described in division (C) of 61472
section 5747.21 of the Revised Code may be applied in the manner 61473
and to the same extent provided in that section. 61474

(5)(a) Except as set forth in division (BB)(5)(b) of this 61475
section, "qualifying investee" means a person in which a trust has 61476
an equity or ownership interest, or a person or unit of government 61477
the debt obligations of either of which are owned by a trust. For 61478
the purposes of division (BB)(2)(a) of this section and for the 61479
purpose of computing the fraction described in division (BB)(4)(b) 61480
of this section, all of the following apply: 61481

(i) If the qualifying investee is a member of a qualifying 61482
controlled group on the last day of the qualifying investee's 61483
fiscal or calendar year ending immediately prior to the date on 61484
which the trust recognizes the gain or loss, then "qualifying 61485
investee" includes all persons in the qualifying controlled group 61486
on such last day. 61487

(ii) If the qualifying investee, or if the qualifying 61488

investee and any members of the qualifying controlled group of 61489
which the qualifying investee is a member on the last day of the 61490
qualifying investee's fiscal or calendar year ending immediately 61491
prior to the date on which the trust recognizes the gain or loss, 61492
separately or cumulatively own, directly or indirectly, on the 61493
last day of the qualifying investee's fiscal or calendar year 61494
ending immediately prior to the date on which the trust recognizes 61495
the qualifying trust amount, more than fifty per cent of the 61496
equity of a pass-through entity, then the qualifying investee and 61497
the other members are deemed to own the proportionate share of the 61498
pass-through entity's physical assets which the pass-through 61499
entity directly or indirectly owns on the last day of the 61500
pass-through entity's calendar or fiscal year ending within or 61501
with the last day of the qualifying investee's fiscal or calendar 61502
year ending immediately prior to the date on which the trust 61503
recognizes the qualifying trust amount. 61504

(iii) For the purposes of division (BB)(5)(a)(iii) of this 61505
section, "upper level pass-through entity" means a pass-through 61506
entity directly or indirectly owning any equity of another 61507
pass-through entity, and "lower level pass-through entity" means 61508
that other pass-through entity. 61509

An upper level pass-through entity, whether or not it is also 61510
a qualifying investee, is deemed to own, on the last day of the 61511
upper level pass-through entity's calendar or fiscal year, the 61512
proportionate share of the lower level pass-through entity's 61513
physical assets that the lower level pass-through entity directly 61514
or indirectly owns on the last day of the lower level pass-through 61515
entity's calendar or fiscal year ending within or with the last 61516
day of the upper level pass-through entity's fiscal or calendar 61517
year. If the upper level pass-through entity directly and 61518
indirectly owns less than fifty per cent of the equity of the 61519
lower level pass-through entity on each day of the upper level 61520

pass-through entity's calendar or fiscal year in which or with 61521
which ends the calendar or fiscal year of the lower level 61522
pass-through entity and if, based upon clear and convincing 61523
evidence, complete information about the location and cost of the 61524
physical assets of the lower pass-through entity is not available 61525
to the upper level pass-through entity, then solely for purposes 61526
of ascertaining if a gain or loss constitutes a qualifying trust 61527
amount, the upper level pass-through entity shall be deemed as 61528
owning no equity of the lower level pass-through entity for each 61529
day during the upper level pass-through entity's calendar or 61530
fiscal year in which or with which ends the lower level 61531
pass-through entity's calendar or fiscal year. Nothing in division 61532
(BB)(5)(a)(iii) of this section shall be construed to provide for 61533
any deduction or exclusion in computing any trust's Ohio taxable 61534
income. 61535

(b) With respect to a trust that is not a resident for the 61536
taxable year and with respect to a part of a trust that is not a 61537
resident for the taxable year, "qualifying investee" for that 61538
taxable year does not include a C corporation if both of the 61539
following apply: 61540

(i) During the taxable year the trust or part of the trust 61541
recognizes a gain or loss from the sale, exchange, or other 61542
disposition of equity or ownership interests in, or debt 61543
obligations of, the C corporation. 61544

(ii) Such gain or loss constitutes nonbusiness income. 61545

(6) "Available" means information is such that a person is 61546
able to learn of the information by the due date plus extensions, 61547
if any, for filing the return for the taxable year in which the 61548
trust recognizes the gain or loss. 61549

(CC) "Qualifying controlled group" has the same meaning as in 61550
section 5733.04 of the Revised Code. 61551

(DD) "Related member" has the same meaning as in section 61552
5733.042 of the Revised Code. 61553

(EE) Any term used in this chapter that is not otherwise 61554
defined in this section and that is not used in a comparable 61555
context in the Internal Revenue Code and other statutes of the 61556
United States relating to federal income taxes has the same 61557
meaning as in section 5733.40 of the Revised Code. 61558

Sec. 5747.02. (A) For the purpose of providing revenue for 61559
the support of schools and local government functions, to provide 61560
relief to property taxpayers, to provide revenue for the general 61561
revenue fund, and to meet the expenses of administering the tax 61562
levied by this chapter, there is hereby levied on every 61563
individual, trust, and estate residing in or earning or receiving 61564
income in this state, on every individual, trust, and estate 61565
earning or receiving lottery winnings, prizes, or awards pursuant 61566
to Chapter 3770. of the Revised Code, and on every individual, 61567
trust, and estate otherwise having nexus with or in this state 61568
under the Constitution of the United States, an annual tax 61569
measured in the case of individuals by Ohio adjusted gross income 61570
less an exemption for the taxpayer, the taxpayer's spouse, and 61571
each dependent as provided in section 5747.025 of the Revised 61572
Code; measured in the case of trusts by modified Ohio taxable 61573
income under division (D) of this section; and measured in the 61574
case of estates by Ohio taxable income. The tax imposed by this 61575
section on the balance thus obtained is hereby levied as follows: 61576

OHIO ADJUSTED GROSS INCOME LESS 61577

EXEMPTIONS (INDIVIDUALS)

OR 61578

MODIFIED OHIO 61579

TAXABLE INCOME (TRUSTS) 61580

OR 61581

OHIO TAXABLE INCOME (ESTATES)	TAX	61582
<u>For taxable years beginning before January 1, 2005:</u>		61583
\$5,000 or less	.743%	61584
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000	61585
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000	61586
More than \$15,000 but not more than \$20,000	\$260.05 plus 3.715% of the amount in excess of \$15,000	61587
More than \$20,000 but not more than \$40,000	\$445.80 plus 4.457% of the amount in excess of \$20,000	61588
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000	61589
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000	61590
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000	61591
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	61592
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.		61593 61594 61595 61596 61597 61598 61599 61600 61601 61602 61603 61604
The adjusted amounts apply to taxable years beginning in the		61605

~~ealendar year in which the adjustments are made. The tax 61606
commissioner shall not make such adjustments in any year in which 61607
the amount resulting from the adjustment would be less than the 61608
amount resulting from the adjustment in the preceding year. 61609~~

For taxable years beginning in 2005: 61610

\$5,000 or less .7% 61611

More than \$5,000 but not more \$35.00 plus 1.4% of the amount 61612
than \$10,000 in excess of \$5,000

More than \$10,000 but not more \$105.00 plus 2.9% of the amount 61613
than \$15,000 in excess of \$10,000

More than \$15,000 but not more \$250.00 plus 3.7% of the amount 61614
than \$20,000 in excess of \$15,000

More than \$20,000 but not more \$435.00 plus 4.4% of the amount 61615
than \$40,000 in excess of \$20,000

More than \$40,000 but not more \$1,315.00 plus 5.2% of the 61616
than \$80,000 amount in excess of \$40,000

More than \$80,000 but not more \$3,395.00 plus 5.9% of the 61617
than \$100,000 amount in excess of \$80,000

More than \$100,000 but not more \$4,575.00 plus 6.9% of the 61618
than \$200,000 amount in excess of \$100,000

More than \$200,000 \$11,475.00 plus 7.5% of the 61619
amount in excess of \$200,000

OHIO ADJUSTED GROSS INCOME 61620

(INDIVIDUALS)

OR 61621

MODIFIED OHIO 61622

TAXABLE INCOME (TRUSTS) 61623

OR 61624

OHIO TAXABLE INCOME (ESTATES) TAX 61625

For taxable years beginning in 2006: 61626

\$5,000 or less .7% 61627

More than \$5,000 but not more \$35.00 plus 1.4% of the amount 61628

<u>than \$10,000</u>	<u>in excess of \$5,000</u>	
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$105.00 plus 2.9% of the amount in excess of \$10,000</u>	61629
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$250.00 plus 3.7% of the amount in excess of \$15,000</u>	61630
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$435.00 plus 4.4% of the amount in excess of \$20,000</u>	61631
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,315.00 plus 5.2% of the amount in excess of \$40,000</u>	61632
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$3,395.00 plus 5.9% of the amount in excess of \$80,000</u>	61633
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$4,575.00 plus 6.9% of the amount in excess of \$100,000</u>	61634
<u>More than \$200,000</u>	<u>\$11,475.00 plus 7.3% of the amount in excess of \$200,000</u>	61635
<u>For taxable years beginning in 2007:</u>		61636
<u>\$5,000 or less</u>	<u>.7%</u>	61637
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$35.00 plus 1.4% of the amount in excess of \$5,000</u>	61638
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$105.00 plus 2.9% of the amount in excess of \$10,000</u>	61639
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$250.00 plus 3.7% of the amount in excess of \$15,000</u>	61640
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$435.00 plus 4.4% of the amount in excess of \$20,000</u>	61641
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,315.00 plus 5.2% of the amount in excess of \$40,000</u>	61642
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$3,395.00 plus 5.9% of the amount in excess of \$80,000</u>	61643
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$4,575.00 plus 6.9% of the amount in excess of \$100,000</u>	61644
<u>More than \$200,000</u>	<u>\$11,475.00 plus 7.1% of the amount in excess of \$200,000</u>	61645

<u>For taxable years beginning after 2007:</u>		61646
<u>\$5,000 or less</u>	<u>.7%</u>	61647
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$35.00 plus 1.4% of the amount in excess of \$5,000</u>	61648
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$105.00 plus 2.8% of the amount in excess of \$10,000</u>	61649
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$245.00 plus 3.7% of the amount in excess of \$15,000</u>	61650
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$430.00 plus 4.4% of the amount in excess of \$20,000</u>	61651
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,310.00 plus 5.2% of the amount in excess of \$40,000</u>	61652
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$3,390.00 plus 5.9% of the amount in excess of \$80,000</u>	61653
<u>More than \$100,000</u>	<u>\$4,570.00 plus 6.9% of the amount in excess of \$100,000</u>	61654

(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) This division applies only to taxable years of a trust beginning in or after 2002, 2003, or 2004.

(1) The tax imposed by this section on a trust shall be

computed by multiplying the Ohio modified taxable income of the trust by the rates prescribed by division (A) of this section.

(2) 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 the trust's modified nonbusiness income, other than the portion of the trust's nonbusiness income that is qualifying investment income as defined in section 5747.012 of the Revised Code, or (2) the effective tax rate, based on modified Ohio taxable income, multiplied by the trust's modified nonbusiness income other than the portion of trust's nonbusiness income that is qualifying investment income. The credit applies before any other applicable credits.

(3) The credits enumerated in divisions (A)(1) to ~~(13)~~(14) of section 5747.98 of the Revised Code do not apply to a trust subject to this division. Any credits enumerated in other divisions of section 5747.98 of the Revised Code apply to a trust subject to this division. To the extent that the trust distributes income for the taxable year for which a credit is available to the trust, the credit shall be shared by the trust and its beneficiaries. The tax commissioner and the trust shall be guided by applicable regulations of the United States treasury regarding the sharing of credits.

(E) For the purposes of this section, "trust" means any trust described in Subchapter J of Chapter 1 of the Internal Revenue Code, excluding trusts that are not irrevocable as defined in division (I)(3)(b) of section 5747.01 of the Revised Code and that have no modified Ohio taxable income for the taxable year, charitable remainder trusts, qualified funeral trusts, endowment and perpetual care trusts, qualified settlement trusts and funds, designated settlement trusts and funds, and trusts exempted from taxation under section 501(a) of the Internal Revenue Code.

Sec. 5747.022. An (A)(1) For taxable years beginning before 61701
January 1, 2006, an individual subject to the tax imposed by 61702
section 5747.02 of the Revised Code may claim a credit equal to 61703
twenty dollars times the number of exemptions allowed for the 61704
taxpayer, his the taxpayer's spouse, and each dependent under 61705
section 5747.02 of the Revised Code. The credit 61706

(2) For taxable years beginning after 2005, an individual 61707
subject to the tax imposed by section 5747.02 of the Revised Code 61708
may claim a nonrefundable credit equal to eighty dollars for each 61709
dependent. In the case of a joint return, neither spouse shall be 61710
considered to be a dependent of the other spouse. In the case of a 61711
return other than a joint return, a taxpayer's spouse shall be 61712
considered to be a dependent of the taxpayer for purposes of 61713
division (A)(2) of this section if: 61714

(a) The taxpayer's spouse has no Ohio adjusted gross income; 61715

(b) The taxpayer's spouse is not a dependent of another; and 61716

(c) The taxpayer is entitled to two personal exemptions on 61717
the taxpayer's federal income tax return. 61718

(B) For taxable years beginning after 2005, an individual 61719
subject to the tax imposed by section 5747.02 of the Revised Code 61720
who files a return other than a joint return may claim a 61721
nonrefundable credit equal to the lesser of the following amounts: 61722

(1) One hundred five dollars, as adjusted by division (E) of 61723
this section. 61724

(2) The product of the amount described in division (B)(1) of 61725
this section, as adjusted by division (E) of this section, times 61726
the "qualifying percentage" described in divisions (B)(2)(a) and 61727
(b) of this section. 61728

(a) For a taxpayer with an Ohio adjusted gross income of one 61729
hundred thousand dollars or less, the "qualifying percentage" is 61730

one hundred per cent. 61731

(b) For a taxpayer with an Ohio adjusted gross income greater than one hundred thousand dollars, the "qualifying percentage" is one hundred per cent minus the percentage ratio of a fraction the numerator of which is the lesser of fifty thousand dollars or the excess of the taxpayer's Ohio adjusted gross income over one hundred thousand dollars and the denominator of which is fifty thousand dollars. 61732
61733
61734
61735
61736
61737
61738

(C) For taxable years beginning after 2005, an individual subject to the tax imposed by section 5747.02 of the Revised Code may claim, in the case of a joint return, a nonrefundable credit that is equal to the lesser of the following amounts: 61739
61740
61741
61742

(1) Two hundred ten dollars, as adjusted by division (E) of this section; 61743
61744

(2) The product of the amount described in division (C)(1) of this section, as adjusted by division (E) of this section, times the "qualifying percentage" described in divisions (C)(2)(a) and (b) of this section: 61745
61746
61747
61748

(a) For a taxpayer with an Ohio adjusted gross income of two hundred thousand dollars or less, the "qualifying percentage" is one hundred per cent. 61749
61750
61751

(b) For a taxpayer with an Ohio adjusted gross income greater than two hundred thousand dollars, the "qualifying percentage" is one hundred per cent minus the percentage ratio of a fraction the numerator of which is the lesser of one hundred thousand dollars or the excess of the taxpayer's Ohio adjusted gross income over two hundred thousand dollars and the denominator of which is one hundred thousand dollars. 61752
61753
61754
61755
61756
61757
61758

(D) The credits under this section shall be claimed in the order required under section 5747.98 of the Revised Code. The credit shall not be considered in determining the taxes required 61759
61760
61761

to be withheld under section 5747.06 of the Revised Code or the 61762
estimated taxes required to be paid under section 5747.09 of the 61763
Revised Code. 61764

(E) In September of each year, beginning in 2007, the tax 61765
commissioner shall determine the percentage increase in the gross 61766
domestic product deflator determined by the bureau of economic 61767
analysis of the United States department of commerce from the 61768
first day of January of the preceding calendar year to the last 61769
day of December of the preceding calendar year, and adjust the 61770
credit amounts described in divisions (A)(2), (B)(1), and (C)(1) 61771
of this section for taxable years beginning in the current 61772
calendar year by multiplying those amounts by the percentage 61773
increase in the gross domestic product deflator for that period; 61774
adding the resulting product to the credit amounts for taxable 61775
years beginning in the preceding calendar year; and rounding the 61776
resulting sum upward to the nearest multiple of ten dollars. The 61777
commissioner shall not make such an adjustment in any calendar 61778
year in which the amount resulting from the adjustment would be 61779
less than the amount resulting from the adjustment in the 61780
preceding calendar year. 61781

Sec. 5747.025. (A) Except for the purposes of Chapter 5748. 61782
of the Revised Code, this section does not apply to taxable years 61783
beginning after 2005. 61784

(A) The personal exemption for the taxpayer and the 61785
taxpayer's spouse shall be seven hundred fifty dollars each for 61786
the taxable year beginning in 1996, eight hundred fifty dollars 61787
each for the taxable year beginning in 1997, nine hundred fifty 61788
dollars each for the taxable year beginning in 1998, and one 61789
thousand fifty dollars each for the taxable year beginning in 1999 61790
and taxable years beginning after 1999 and before 2006. The 61791
personal exemption amount prescribed in this division for taxable 61792

years beginning after 1999 and before 2006 shall be adjusted each 61793
year in the manner prescribed in division (C) of this section. 61794

(B) The personal exemption for each dependent shall be eight 61795
hundred fifty dollars for the taxable year beginning in 1996, and 61796
one thousand fifty dollars for the taxable year beginning in 1997 61797
and taxable years beginning after 1997 and before 2006. The 61798
personal exemption amount prescribed in this division for taxable 61799
years beginning after 1999 and before 2006 shall be adjusted each 61800
year in the manner prescribed in division (C) of this section. 61801

(C) In September of each year, beginning in 2000, the tax 61802
commissioner shall determine the percentage increase in the gross 61803
domestic product deflator determined by the bureau of economic 61804
analysis of the United States department of commerce from the 61805
first day of January of the preceding calendar year to the last 61806
day of December of the preceding year, and adjust the personal 61807
exemption amount for taxable years beginning in the current 61808
calendar year by multiplying that amount by the percentage 61809
increase in the gross domestic product deflator for that period; 61810
adding the resulting product to the personal exemption amount for 61811
taxable years beginning in the preceding calendar year; and 61812
rounding the resulting sum upward to the nearest multiple of fifty 61813
dollars. The commissioner shall not make such an adjustment in any 61814
calendar year in which the amount resulting from the adjustment 61815
would be less than the amount resulting from the adjustment in the 61816
preceding calendar year. 61817

Sec. 5747.05. As used in this section, "income tax" includes 61818
both a tax on net income and a tax measured by net income. 61819

The following credits shall be allowed against the income tax 61820
imposed by section 5747.02 of the Revised Code on individuals and 61821
estates: 61822

(A)(1) The amount of tax otherwise due under section 5747.02 61823

of the Revised Code on such portion of the adjusted gross income 61824
of any nonresident taxpayer that is not allocable to this state 61825
pursuant to sections 5747.20 to 5747.23 of the Revised Code; 61826

(2) The credit provided under this division shall not exceed 61827
the portion of the total tax due under section 5747.02 of the 61828
Revised Code that the amount of the nonresident taxpayer's 61829
adjusted gross income not allocated to this state pursuant to 61830
sections 5747.20 to 5747.23 of the Revised Code bears to the total 61831
adjusted gross income of the nonresident taxpayer derived from all 61832
sources everywhere. 61833

(3) The tax commissioner may enter into an agreement with the 61834
taxing authorities of any state or of the District of Columbia 61835
that imposes an income tax to provide that compensation paid in 61836
this state to a nonresident taxpayer shall not be subject to the 61837
tax levied in section 5747.02 of the Revised Code so long as 61838
compensation paid in such other state or in the District of 61839
Columbia to a resident taxpayer shall likewise not be subject to 61840
the income tax of such other state or of the District of Columbia. 61841
No such agreement, including any existing agreements that the 61842
commissioner may have entered into pursuant to division (A)(3) of 61843
this section, shall apply for taxable years beginning in 2004, 61844
2005, 2006, 2007, or 2008, and the taxes imposed under this 61845
chapter shall apply to nonresidents for those taxable years. 61846

(B) The lesser of division (B)(1) or (2) of this section: 61847

(1) The amount of tax otherwise due under section 5747.02 of 61848
the Revised Code on such portion of the adjusted gross income of a 61849
resident taxpayer that in another state or in the District of 61850
Columbia is subjected to an income tax. The credit provided under 61851
division (B)(1) of this section shall not exceed the portion of 61852
the total tax due under section 5747.02 of the Revised Code that 61853
the amount of the resident taxpayer's adjusted gross income 61854
subjected to an income tax in the other state or in the District 61855

of Columbia bears to the total adjusted gross income of the 61856
resident taxpayer derived from all sources everywhere. 61857

(2) The amount of income tax liability to another state or 61858
the District of Columbia on the portion of the adjusted gross 61859
income of a resident taxpayer that in another state or in the 61860
District of Columbia is subjected to an income tax. The credit 61861
provided under division (B)(2) of this section shall not exceed 61862
the amount of tax otherwise due under section 5747.02 of the 61863
Revised Code. 61864

(3) No credit shall be allowed under division (B) of this 61865
section to the extent that for any taxable year the taxpayer has 61866
directly or indirectly deducted, or was required to directly or 61867
indirectly deduct, the amount of income tax liability to another 61868
state or the District of Columbia. 61869

(4) If the credit provided under division (B) of this section 61870
is affected by a change in either the portion of adjusted gross 61871
income of a resident taxpayer subjected to an income tax in 61872
another state or the District of Columbia or the amount of income 61873
tax liability that has been paid to another state or the District 61874
of Columbia, the taxpayer shall report the change to the tax 61875
commissioner within sixty days of the change in such form as the 61876
commissioner requires. 61877

(a) In the case of an underpayment, the report shall be 61878
accompanied by payment of any additional tax due as a result of 61879
the reduction in credit together with interest on the additional 61880
tax and is a return subject to assessment under section 5747.13 of 61881
the Revised Code solely for the purpose of assessing any 61882
additional tax due under this division, together with any 61883
applicable penalty and interest. It shall not reopen the 61884
computation of the taxpayer's tax liability under this chapter 61885
from a previously filed return no longer subject to assessment 61886
except to the extent that such liability is affected by an 61887

adjustment to the credit allowed by division (B) of this section. 61888

(b) In the case of an overpayment, an application for refund 61889
may be filed under this division within the sixty day period 61890
prescribed for filing the report even if it is beyond the period 61891
prescribed in section 5747.11 of the Revised Code if it otherwise 61892
conforms to the requirements of such section. An application filed 61893
under this division shall only claim refund of overpayments 61894
resulting from an adjustment to the credit allowed by division (B) 61895
of this section unless it is also filed within the time prescribed 61896
in section 5747.11 of the Revised Code. It shall not reopen the 61897
computation of the taxpayer's tax liability except to the extent 61898
that such liability is affected by an adjustment to the credit 61899
allowed by division (B) of this section. 61900

(C) For a taxpayer sixty-five years of age or older during 61901
the taxable year, a credit for such year equal to fifty dollars 61902
for each return required to be filed under section 5747.08 of the 61903
Revised Code. 61904

(D) A taxpayer sixty-five years of age or older during the 61905
taxable year who has received a lump-sum distribution from a 61906
pension, retirement, or profit-sharing plan in the taxable year 61907
may elect to receive a credit under this division in lieu of the 61908
credit to which the taxpayer is entitled under division (C) of 61909
this section. A taxpayer making such election shall receive a 61910
credit for the taxable year equal to fifty dollars times the 61911
taxpayer's expected remaining life as shown by annuity tables 61912
issued under the provisions of the Internal Revenue Code and in 61913
effect for the calendar year which includes the last day of the 61914
taxable year. A taxpayer making an election under this division is 61915
not entitled to the credit authorized under division (C) of this 61916
section in subsequent taxable years except that if such election 61917
was made prior to July 1, 1983, the taxpayer is entitled to 61918
one-half the credit authorized under such division in subsequent 61919

taxable years but may not make another election under this 61920
division. 61921

(E) A taxpayer who is not sixty-five years of age or older 61922
during the taxable year who has received a lump-sum distribution 61923
from a pension, retirement, or profit-sharing plan in a taxable 61924
year ending on or before July 31, 1991, may elect to take a credit 61925
against the tax otherwise due under this chapter for such year 61926
equal to fifty dollars times the expected remaining life of a 61927
taxpayer sixty-five years of age as shown by annuity tables issued 61928
under the provisions of the Internal Revenue Code and in effect 61929
for the calendar year which includes the last day of the taxable 61930
year. A taxpayer making an election under this division is not 61931
entitled to a credit under division (C) or (D) of this section in 61932
any subsequent year except that if such election was made prior to 61933
July 1, 1983, the taxpayer is entitled to one-half the credit 61934
authorized under division (C) of this section in subsequent years 61935
but may not make another election under this division. No taxpayer 61936
may make an election under this division for a taxable year ending 61937
on or after August 1, 1991. 61938

(F) A taxpayer making an election under either division (D) 61939
or (E) of this section may make only one such election in the 61940
taxpayer's lifetime. 61941

(G)(1) On a joint return filed by a husband and wife, each of 61942
whom had adjusted gross income of at least five hundred dollars, 61943
exclusive of interest, dividends and distributions, royalties, 61944
rent, and capital gains, a credit equal to the percentage, shown 61945
in the table contained in ~~this~~ division (G)(2) of this section, of 61946
the amount of tax due after allowing for any other credit that 61947
precedes ~~the~~ that ~~credit under this division~~ in the order required 61948
under section 5747.98 of the Revised Code. 61949

(2)(a) The credit to which a taxpayer is entitled under this 61950
division in any taxable year beginning before 2006 is the 61951

percentage shown in column B that corresponds with the taxpayer's 61952
adjusted gross income, less exemptions for the taxable year: 61953

A.	B.	
IF THE ADJUSTED GROSS INCOME,	THE CREDIT FOR THE TAXABLE	61955
LESS EXEMPTIONS, FOR THE TAX YEAR	YEAR IS:	
IS:		

\$25,000 or less	20%	61956
More than \$25,000 but not more than \$50,000	15%	61957
More than \$50,000 but not more than \$75,000	10%	61958
More than \$75,000	5%	61959

(b) The credit to which a taxpayer is entitled under this 61960
division in any taxable year beginning after 2005 is the 61961
percentage shown in column B that corresponds with the taxpayer's 61962
adjusted gross income, less exemptions for the taxable year: 61963

<u>A.</u>	<u>B.</u>	
<u>IF THE ADJUSTED GROSS INCOME,</u>	<u>THE CREDIT FOR THE TAXABLE</u>	61964
<u>LESS EXEMPTIONS, FOR THE TAX YEAR</u>	<u>YEAR IS:</u>	61965
<u>IS:</u>		

<u>\$25,000 or less</u>	<u>20%</u>	61966
<u>More than \$25,000 but not more</u> <u>than \$60,000</u>	<u>15%</u>	61967
<u>More than \$60,000 but not more</u> <u>than \$85,000</u>	<u>10%</u>	61968
<u>More than \$85,000</u>	<u>5%</u>	61969

(3) The credit allowed under ~~this~~ division (G) of this 61970
section shall not exceed six hundred fifty dollars in any taxable 61971
year. 61972

(H) No claim for credit under this section shall be allowed 61973
unless the claimant furnishes such supporting information as the 61974
tax commissioner prescribes by rules. Each credit under this 61975

section shall be claimed in the order required under section 61976
5747.98 of the Revised Code. 61977

(I) An individual who is a resident for part of a taxable 61978
year and a nonresident for the remainder of the taxable year is 61979
allowed the credits under divisions (A) and (B) of this section in 61980
accordance with rules prescribed by the tax commissioner. In no 61981
event shall the same income be subject to both credits. 61982

(J) The credit allowed under division (A) of this section 61983
shall be calculated based upon the amount of tax due under section 61984
5747.02 of the Revised Code after subtracting any other credits 61985
that precede the credit under that division in the order required 61986
under section 5747.98 of the Revised Code. The credit allowed 61987
under division (B) of this section shall be calculated based upon 61988
the amount of tax due under section 5747.02 of the Revised Code 61989
after subtracting any other credits that precede the credit under 61990
that division in the order required under section 5747.98 of the 61991
Revised Code. 61992

(K) No credit shall be allowed under division (B) of this 61993
section unless the taxpayer furnishes such proof as the tax 61994
commissioner shall require that the income tax liability has been 61995
paid to another state or the District of Columbia. 61996

(L) No credit shall be allowed under division (B) of this 61997
section for compensation that is not subject to the income tax of 61998
another state or the District of Columbia as the result of an 61999
agreement entered into by the tax commissioner under division 62000
(A)(3) of this section. 62001

Sec. 5747.057. (A) As used in this section: 62002

(1) "Average of the payroll factor and the property factor" 62003
means one-half multiplied by the sum of the payroll factor and the 62004
property factor. 62005

(2) Subject to divisions (C) and (I) of this section, "export sales" means sales used in determining the denominator of the sales factor under division (C) of section 5747.21 of the Revised Code, as long as the sales meet the requirements of division (A)(2)(a) of this section and either or both of divisions (A)(2)(b) and (c) of this section.

(a) The gross receipts with respect to the sales qualify as foreign trading gross receipts as defined under section 924 of the Internal Revenue Code and regulations prescribed thereunder, except not including foreign trading gross receipts defined under section 924(a)(5) of the Internal Revenue Code and regulations prescribed thereunder. In addition, for the purposes of division (A)(2)(a) of this section, section 924 of the Internal Revenue Code is considered to apply to any taxpayer, not just an FSC as that term is defined under section 922 of the Internal Revenue Code.

(b) In the case of sales of tangible personal property, the taxpayer establishes by preponderance of the evidence that the property is not received by the purchaser within the United States. If the property is delivered by common carrier or by other means of transportation, the place at which the property is ultimately received after all transportation has been completed shall be considered as the place at which the property is received by the purchaser. Direct delivery in the United States, other than for purposes of transportation, to a person or firm designated by the purchaser constitutes delivery to the purchaser in the United States. Direct delivery outside the United States to a person or firm designated by the purchaser does not constitute delivery to the purchaser in the United States, regardless of where title passes or other condition of sale.

In addition, the taxpayer also establishes by clear and convincing evidence one of the following:

(i) With respect to sales of tangible personal property to a related member, within the twelve-month period subsequent to the delivery to the related member, the related member in turn sells the property, or leases it for a period of at least five years, and delivers the property in the same form or as a component part of other property to a purchaser or lessee who is not a related member. In addition, during the twenty-four-month period subsequent to such sale or lease by the related member, the purchaser or lessee or a related member of the purchaser or lessee does not receive, use, or consume the property, either in the same form or as a component part of other property, within the United States, and does not directly or indirectly sell or lease the property, either in the same form or as a component part of other property, for use or consumption in the United States.

(ii) With respect to all other sales of tangible personal property, during the twenty-four-month period subsequent to such sale, the purchaser or a related member of the purchaser does not receive, use, or consume the property, either in the same form or as a component part of other property, in the United States, and does not directly or indirectly sell the property, either in the same form or as a component part of other property, for use or consumption in the United States.

(c) In the case of sales of services, the taxpayer establishes by preponderance of the evidence that the purchaser uses or consumes the services or the object of the services in a location other than the United States. If a purchaser will receive and use or consume the services or the object of the services both within and outside the United States, the sale is considered to be a sale of services or of the object of the services used or consumed outside the United States by the purchaser only to the extent of such proportionate use or consumption outside the United States. The taxpayer shall establish by preponderance of the

evidence that the services or the object of the services was 62070
ultimately received and used or consumed outside the United 62071
States. Direct or indirect sales of services or the object of 62072
services to a related member do not meet the requirements of 62073
division (A)(2)(c) of this section unless the taxpayer establishes 62074
by clear and convincing evidence that within the twelve-month 62075
period subsequent to the sale to the related member, the related 62076
member in turn sold and delivered or rendered the services or the 62077
object of the services to a person who is not a related member and 62078
such person ultimately received and used or consumed the services 62079
or the object of the services outside the United States. In no 62080
event shall a sale of services qualify as an export sale if the 62081
taxpayer or the taxpayer's related member directly or indirectly 62082
acquired such services from a person who is not a United States 62083
person and if the taxpayer or the taxpayer's related member in 62084
turn directly or indirectly sold such services in substantially 62085
the same form. For purposes of this section, services are sold in 62086
substantially the same form where more than fifty per cent of the 62087
fair market value of such services sold is attributable to 62088
services directly or indirectly purchased by the taxpayer or by 62089
the taxpayer's related member from a person who is not a United 62090
States person. 62091

(3) "Incremental increase in export sales" means one-half of 62092
the difference obtained by subtracting the amount of the 62093
taxpayer's export sales for the second preceding taxable year from 62094
the amount of the taxpayer's export sales for the taxable year. 62095

If the taxpayer's taxable year is a period of greater than or 62096
less than three hundred sixty-five days, or three hundred 62097
sixty-six days for a taxable year that includes February 62098
twenty-nine, the amount of the export sales for that taxable year 62099
shall be adjusted and restated to an annualized amount. 62100

(4) Subject to divisions (C), (F)(1), (I), and (J) of this 62101

section, "Ohio payroll increase factor" means twelve and one-half 62102
multiplied by the difference obtained by subtracting two 62103
one-hundredths from the largest of the following quotients: 62104

(a) The numerator of the payroll factor for the taxable year 62105
minus the numerator of the payroll factor for the immediately 62106
preceding taxable year, divided by the numerator of the payroll 62107
factor for the immediately preceding taxable year; 62108

(b) The numerator of the payroll factor for the taxable year 62109
minus the numerator of the payroll factor for the second preceding 62110
taxable year, divided by the numerator of the payroll factor for 62111
the second preceding taxable year; 62112

(c) The numerator of the payroll factor for the taxable year 62113
minus the numerator of the payroll factor for the third preceding 62114
taxable year, divided by the numerator of the payroll factor for 62115
the third preceding taxable year. 62116

If the numerator of the payroll factor for a taxable year 62117
represents payroll for a period of greater than or less than three 62118
hundred sixty-five days, or three hundred sixty-six days for a 62119
taxable year that includes a twenty-ninth day of February, for 62120
purposes of this section the numerator for that taxable year shall 62121
be adjusted and restated to an annualized amount. If neither the 62122
taxpayer nor its related members were subject to the tax imposed 62123
by section 5747.02 of the Revised Code for any of the three 62124
immediately preceding taxable years, the numerator of the payroll 62125
factor for any such year shall be considered to be one dollar. 62126

In no event shall the Ohio payroll increase factor be greater 62127
than one or less than zero. 62128

(5) Subject to divisions (C), (F)(2), and (I) of this 62129
section, "Ohio property increase factor" means ten multiplied by 62130
the largest of the following quotients: 62131

(a) The numerator of the property factor for the taxable year 62132

minus the numerator of the property factor for the immediately preceding taxable year, divided by the numerator of the property factor for the immediately preceding taxable year;

(b) The numerator of the property factor for the taxable year minus the numerator of the property factor for the second preceding taxable year, divided by the numerator of the property factor for the second preceding taxable year;

(c) The numerator of the property factor for the taxable year minus the numerator of the property factor for the third preceding taxable year, divided by the numerator of the property factor for the third preceding taxable year.

If neither the taxpayer nor its related members were subject to the tax imposed by section 5747.02 of the Revised Code for any of the three immediately preceding taxable years, the numerator of the property factor for any such year shall be considered to be one dollar.

In no event shall the Ohio property increase factor be greater than one or less than zero.

(6) Subject to divisions (C), (I), and (J) of this section, "payroll factor" has the same meaning as in division (B) of section 5747.21 of the Revised Code with any adjustments, exclusions, or alterations made in accordance with division (D) of that section and without regard to the credit provided by division (A) of section 5747.05 of the Revised Code.

(7) "Pre-tax profit from the incremental increase in export sales" means fifteen per cent of the incremental increase in export sales, except that the taxpayer may establish by preponderance of the evidence that the pre-tax profit margin from such sales is an amount exceeding fifteen per cent but not exceeding fifty per cent. For purposes of this section, the pre-tax profit margin shall be determined on a product line by

product line basis, and equals the quotient of the taxpayer's 62164
adjusted gross income with respect to the product line, divided by 62165
the taxpayer's sales for the product line less sales returns, 62166
allowances, and discounts. 62167

Nothing in division (A)(7) of this section shall be used or 62168
construed to support a request under division (D) of section 62169
5747.21 of the Revised Code. 62170

(8) Subject to divisions (C) and (I) of this section, 62171
"property factor" has the same meaning as in division (A) of 62172
section 5747.21 of the Revised Code with any adjustments, 62173
exclusions, or alterations made in accordance with division (D) of 62174
that section and without regard to the credit provided by division 62175
(A) of section 5747.05 of the Revised Code. 62176

(9) "Related member" has the same meaning as ~~under division~~ 62177
~~(A)(6) of~~ in section 5733.042 of the Revised Code without regard 62178
to division (B) of that section. 62179

(10) "Tentative credit" means the credit under division (B) 62180
of this section without regard to the limitations set forth in 62181
division (D) of this section. 62182

(11) "United States" means the United States and its 62183
territories and possessions. 62184

(12) "United States person" has the same meaning as under 62185
section 7701(A)(30) of the Internal Revenue Code. 62186

(B) A nonrefundable credit is allowed against the tax imposed 62187
under section 5747.02 of the Revised Code. The credit shall be 62188
claimed in the order required under section 5747.98 of the Revised 62189
Code. Subject to divisions (D) and (G) of this section, the credit 62190
equals the sum of the following: 62191

(1) For taxable years beginning in 1992 through taxable years 62192
beginning in 1999, ten per cent of the product obtained by 62193

multiplying all of the following together:	62194
(a) The pre-tax profit from the incremental increase in export sales for the taxable year;	62195 62196
(b) The average of the property factor and the payroll factor for the taxable year;	62197 62198
(c) The greater of the Ohio payroll increase factor or the Ohio property increase factor.	62199 62200
(2) For taxable years beginning in 1993 through taxable years beginning in 2004, the sum of any amounts carried forward from taxable years beginning in 1992 through taxable years beginning in 1999 in accordance with division (E) of this section.	62201 62202 62203 62204
(C) For purposes of this section, a taxpayer's export sales and the numerators and denominators of the taxpayer's payroll and property factors shall include the taxpayer's proportionate shares of the export sales and numerators and denominators of the payroll and property factors, respectively, for all pass-through entities. For purposes of applying this division, the tax commissioner shall be guided by the concepts set forth in section 41(f)(2) of the Internal Revenue Code and regulations prescribed thereunder.	62205 62206 62207 62208 62209 62210 62211 62212
Nothing in this division shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5747.02 of the Revised Code and the credits allowed by this chapter.	62213 62214 62215 62216 62217
(D) In no circumstance shall the credit provided by this section be less than zero.	62218 62219
If a taxpayer's tentative credit for a taxable year is greater than two hundred fifty thousand dollars or the taxpayer's tax due after taking into account any other nonrefundable credits that precede the credit under this section in the order required	62220 62221 62222 62223

under section 5747.98 of the Revised Code, then the credit allowed 62224
to the taxpayer for the taxable year shall not exceed the lesser 62225
of two hundred fifty thousand dollars or the taxpayer's tax due 62226
after taking into account any other nonrefundable credits that 62227
precede the credit under this section in that order. 62228

(E)(1) Pursuant to division (B)(2) of this section, the 62229
greater of the amount described in division (E)(1)(a) or the 62230
amount described in division (E)(1)(b) of this section shall be 62231
allowed as a nonrefundable credit for the taxpayer in ensuing 62232
taxable years: 62233

(a) The excess, if any, of the tentative credit for the 62234
taxable year over two hundred fifty thousand dollars; 62235

(b) The excess, if any, of the tentative credit for the 62236
taxable year over the tax due for the taxable year after taking 62237
into account any other nonrefundable credits that precede the 62238
credit under this section in the order required under section 62239
5747.98 of the Revised Code. 62240

(2) Any such amount allowed as a credit in an ensuing taxable 62241
year shall be deducted from the balance carried forward to the 62242
next ensuing taxable year. Such credit shall be taken into account 62243
prior to the allowance of any credit for such taxable year under 62244
division (B)(1) of this section. In no event shall any amount or 62245
any portion of any amount described in division (E)(1)(a) or (b) 62246
of this section be allowed in any taxable year beginning after 62247
December 31, 2004. 62248

(F)(1) With respect to the computation of the Ohio payroll 62249
increase factor, divisions (A)(4)(b) and (c) of this section shall 62250
not apply to taxable years beginning in 1992 or 1993, and division 62251
(A)(4)(c) of this section shall not apply to taxable years 62252
beginning in 1994. 62253

(2) With respect to the computation of the Ohio property 62254

increase factor, divisions (A)(5)(b) and (c) of this section shall 62255
not apply to taxable years beginning in 1992 and 1993, and 62256
division (A)(5)(c) of this section shall not apply to taxable 62257
years beginning in 1994. 62258

(G) The aggregate credit allowed to a taxpayer for taxable 62259
years beginning in 1992 through taxable years beginning in 2004 62260
shall not exceed three million two hundred fifty thousand dollars. 62261

(H) For purposes of divisions (E) and (G) and the limitations 62262
set forth in division (D) of this section, married taxpayers 62263
filing a joint return for the taxable year in accordance with 62264
section 6013 of the Internal Revenue Code each shall be considered 62265
to be a taxpayer. Each such taxpayer shall have an annual 62266
limitation on the amount of the credit of the lesser of two 62267
hundred fifty thousand dollars or that taxpayer's portion of the 62268
tax due, after taking into account all other nonrefundable credits 62269
provided by this chapter. Each such taxpayer's portion of the tax 62270
due after taking into account all other nonrefundable credits 62271
provided by this chapter, shall be the product of the tax due 62272
after allowance for the sum of all other nonrefundable credits and 62273
all refundable credits other than amounts withheld and estimated 62274
tax payments multiplied by the quotient of the tax that would have 62275
been due from the taxpayer after allowance for the sum of all 62276
other nonrefundable credits and all refundable credits other than 62277
amounts withheld and estimated tax payments if the taxpayer were 62278
not filing a joint return for the taxable year divided by the tax 62279
that would have been due from both the taxpayer and the taxpayer's 62280
spouse after allowance for the sum of all other nonrefundable 62281
credits and refundable credits other than amounts withheld and 62282
estimated tax payments if the taxpayer and spouse were not filing 62283
a joint return for the taxable year. 62284

(I)(1) If a taxpayer acquires the major portion of a trade or 62285
business of another person or the major portion of a separate unit 62286

of a trade or business of another person, then for purposes of 62287
applying this section to the taxable year in which the acquisition 62288
occurred and subsequent taxable years, the amount of the 62289
taxpayer's export sales, payroll, subject to division (J) of this 62290
section, and property for periods before the acquisition shall be 62291
increased by so much of such amounts paid or incurred by the 62292
previous owner of the acquired trade, business, or separate unit 62293
as is attributable to the portion of such trade, business, or 62294
separate unit acquired by the taxpayer. 62295

(2) If a taxpayer disposes of a major portion of a trade or 62296
business or the major portion of a separate unit of a trade or 62297
business in a transaction to which division (I)(1) of this section 62298
applies, and if the taxpayer furnished the acquiring person such 62299
information as is necessary for the application of division (I)(1) 62300
of this section, then for purposes of applying this section to the 62301
taxable year in which the disposition occurred and to subsequent 62302
taxable years, the amount of the taxpayer's export sales, payroll, 62303
subject to division (J) of this section, and property for periods 62304
before the disposition shall be decreased by so much of such 62305
amounts as is attributable to the portion of such trade, business, 62306
or separate unit disposed of by the taxpayer. 62307

(3) For purposes of applying this division, the tax 62308
commissioner shall be guided by the concepts set forth in section 62309
41(f)(3) of the Internal Revenue Code and regulations prescribed 62310
thereunder. 62311

(J) For purposes of this section, payroll and compensation do 62312
not include amounts in excess of two hundred thousand dollars 62313
directly or indirectly paid or accrued during the taxable year to 62314
an employee. For purposes of applying this division, the aggregate 62315
payroll and compensation directly or indirectly paid or accrued by 62316
an employer and by the employer's related members, if any, to an 62317
employee and to the employee's children, grandchildren, parents, 62318

and spouse, other than a spouse who is legally separated from the 62319
employee, shall be considered to be paid to the employee. 62320

If the aggregate payroll and compensation paid or accrued by 62321
an employer and by an employer's related members during the 62322
taxable year to the employee exceeds two hundred thousand dollars, 62323
the employer's portion of such excess amount shall be the product 62324
of the excess amount multiplied by the quotient of the payroll and 62325
compensation paid or accrued by the employer during the taxable 62326
year to the employee divided by the aggregate payroll and 62327
compensation paid or accrued by the employer and by the employer's 62328
related members during the taxable year to the employee. 62329

(K) With respect to allowing the credit provided by this 62330
section, the tax commissioner shall be guided by the doctrines of 62331
"economic reality," "sham transaction," "step transaction," and 62332
"substance over form." The taxpayer shall bear the burden of 62333
establishing by preponderance of the evidence that any transaction 62334
giving rise to a claimed credit did not have as a principal 62335
purpose the avoidance of any portion of the tax imposed by section 62336
5747.02 of the Revised Code. 62337

Nothing in this section shall be construed to limit solely to 62338
this section the application of the doctrines listed in this 62339
division. 62340

Sec. 5747.08. An annual return with respect to the tax 62341
imposed by section 5747.02 of the Revised Code and each tax 62342
imposed under Chapter 5748. of the Revised Code shall be made by 62343
every taxpayer for any taxable year for which the taxpayer is 62344
liable for the tax imposed by that section or under that chapter, 62345
unless the total credits allowed under divisions (E), (F), and (G) 62346
of section 5747.05 of the Revised Code for the year are equal to 62347
or exceed the tax imposed by section 5747.02 of the Revised Code, 62348
in which case no return shall be required unless the taxpayer is 62349

liable for a tax imposed pursuant to Chapter 5748. of the Revised Code. 62350
62351

(A) If an individual is deceased, any return or notice required of that individual under this chapter shall be made and filed by that decedent's executor, administrator, or other person charged with the property of that decedent. 62352
62353
62354
62355

(B) If an individual is unable to make a return or notice required by this chapter, the return or notice required of that individual shall be made and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. 62356
62357
62358
62359
62360
62361

(C) Returns or notices required of an estate or a trust shall be made and filed by the fiduciary of the estate or trust. 62362
62363

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) of this section, any pass-through entity may file a single return on behalf of one or more of the entity's investors other than an investor that is a person subject to the tax imposed under section 5733.06 of the Revised Code. The single return shall set forth the name, address, and social security number or other identifying number of each of those pass-through entity investors and shall indicate the distributive share of each of those pass-through entity investor's income taxable in this state in accordance with sections 5747.20 to 5747.231 of the Revised Code. Such pass-through entity investors for whom the pass-through entity elects to file a single return are not entitled to the exemption or credit provided for by sections 5747.02 and 5747.022 of the Revised Code; shall calculate the tax before business credits at the highest rate of tax set forth in section 5747.02 of the Revised Code for the taxable year for which the return is filed; and are entitled to only their distributive share of the business credits as defined in division (D)(2) of this section. A single 62364
62365
62366
62367
62368
62369
62370
62371
62372
62373
62374
62375
62376
62377
62378
62379
62380
62381

check drawn by the pass-through entity shall accompany the return 62382
in full payment of the tax due, as shown on the single return, for 62383
such investors, other than investors who are persons subject to 62384
the tax imposed under section 5733.06 of the Revised Code. 62385

(b)(i) A pass-through entity shall not include in such a 62386
single return any investor that is a trust to the extent that any 62387
direct or indirect current, future, or contingent beneficiary of 62388
the trust is a person subject to the tax imposed under section 62389
5733.06 of the Revised Code. 62390

(ii) A pass-through entity shall not include in such a single 62391
return any investor that is itself a pass-through entity to the 62392
extent that any direct or indirect investor in the second 62393
pass-through entity is a person subject to the tax imposed under 62394
section 5733.06 of the Revised Code. 62395

(c) Nothing in division (D) of this section precludes the tax 62396
commissioner from requiring such investors to file the return and 62397
make the payment of taxes and related interest, penalty, and 62398
interest penalty required by this section or section 5747.02, 62399
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 62400
of this section shall be construed to provide to such an investor 62401
or pass-through entity any additional deduction or credit, other 62402
than the credit provided by division (J) of this section, solely 62403
on account of the entity's filing a return in accordance with this 62404
section. Such a pass-through entity also shall make the filing and 62405
payment of estimated taxes on behalf of the pass-through entity 62406
investors other than an investor that is a person subject to the 62407
tax imposed under section 5733.06 of the Revised Code. 62408

(2) For the purposes of this section, "business credits" 62409
means the credits listed in section 5747.98 of the Revised Code 62410
excluding the following credits: 62411

(a) The retirement credit under division (B) of section 62412

5747.055 of the Revised Code;	62413
(b) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;	62414 62415
(c) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	62416 62417
(d) The dependent care credit under section 5747.054 of the Revised Code;	62418 62419
(e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	62420 62421
(f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	62422 62423
(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	62424 62425
(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	62426 62427
(i) <u>The For taxable years beginning before January 1, 2006, the</u> twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	62428 62429 62430
(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	62431 62432
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	62433 62434
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	62435 62436
<u>(m) For taxable years beginning after 2005, the dependent credit under division (A)(2) of section 5747.022 of the Revised Code;</u>	62437 62438 62439
<u>(n) For taxable years beginning after 2005, the filing credit under divisions (B) and (C) of section 5747.022 of the Revised</u>	62440 62441

Code. 62442

(3) The election provided for under division (D) of this 62443
section applies only to the taxable year for which the election is 62444
made by the pass-through entity. Unless the tax commissioner 62445
provides otherwise, this election, once made, is binding and 62446
irrevocable for the taxable year for which the election is made. 62447
Nothing in this division shall be construed to provide for any 62448
deduction or credit that would not be allowable if a nonresident 62449
pass-through entity investor were to file an annual return. 62450

(4) If a pass-through entity makes the election provided for 62451
under division (D) of this section, the pass-through entity shall 62452
be liable for any additional taxes, interest, interest penalty, or 62453
penalties imposed by this chapter if the commissioner finds that 62454
the single return does not reflect the correct tax due by the 62455
pass-through entity investors covered by that return. Nothing in 62456
this division shall be construed to limit or alter the liability, 62457
if any, imposed on pass-through entity investors for unpaid or 62458
underpaid taxes, interest, interest penalty, or penalties as a 62459
result of the pass-through entity's making the election provided 62460
for under division (D) of this section. For the purposes of 62461
division (D) of this section, "correct tax due" means the tax that 62462
would have been paid by the pass-through entity had the single 62463
return been filed in a manner reflecting the commissioner's 62464
findings. Nothing in division (D) of this section shall be 62465
construed to make or hold a pass-through entity liable for tax 62466
attributable to a pass-through entity investor's income from a 62467
source other than the pass-through entity electing to file the 62468
single return. 62469

(E) If a husband and wife file a joint federal income tax 62470
return for a taxable year, they shall file a joint return under 62471
this section for that taxable year, and their liabilities are 62472
joint and several, but, if the federal income tax liability of 62473

either spouse is determined on a separate federal income tax return, they shall file separate returns under this section.

If either spouse is not required to file a federal income tax return and either or both are required to file a return pursuant to this chapter, they may elect to file separate or joint returns, and, pursuant to that election, their liabilities are separate or joint and several. If a husband and wife file separate returns pursuant to this chapter, each must claim the taxpayer's own exemption, but not both, as authorized under section 5747.02 of the Revised Code on the taxpayer's own return.

(F) Each return or notice required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number. Each return shall be verified by a declaration under the penalties of perjury. The tax commissioner shall prescribe the form that the signature and declaration shall take.

(G) Each (1) Unless the taxpayer files and pays in accordance with division (G)(2) of this section, then on or before the fifteenth day of April of each year, each return or notice required to be filed under this section shall be made and filed as required by section 5747.04 of the Revised Code, ~~on or before the fifteenth day of April of each year,~~ on paper forms that the tax commissioner shall prescribe, together with remittance made payable to the treasurer of state in the combined amount of the state and all school district income taxes shown to be due on the form or forms, unless the combined amount shown to be due is one dollar or less, in which case that amount need not be remitted. Division (G)(1) of this section does not apply if the commissioner adopts rules under section 5703.054 of the Revised Code that require electronic filing of the return, notice, or remittance.

(2) Each year, on or before the last day of April, returns 62506
and notices required to be filed under this section may be filed 62507
as required by section 5747.04 of the Revised Code in an 62508
electronic format prescribed by the tax commissioner, together 62509
with remittance in such electronic format as the commissioner 62510
prescribes, of the combined amount of the state and all school 62511
district income taxes shown to be due on the form or forms, unless 62512
the combined amount shown to be due is one dollar or less, in 62513
which case that amount need not be remitted. If the commissioner 62514
adopts rules under section 5703.054 of the Revised Code that 62515
require taxpayers to electronically file the return or notice or 62516
make the remittance electronically, then "shall" shall be 62517
substituted for "may" in division (G)(2) of this section. 62518

(3) Upon good cause shown, the commissioner may extend the 62519
period for filing any notice or return required to be filed under 62520
this section and may adopt rules relating to extensions. If the 62521
extension results in an extension of time for the payment of any 62522
state or school district income tax liability with respect to 62523
which the return is filed, the taxpayer shall pay at the time the 62524
tax liability is paid an amount of interest computed at the rate 62525
per annum prescribed by section 5703.47 of the Revised Code on 62526
that liability from the time that payment is due without extension 62527
to the time of actual payment. Except as provided in section 62528
5747.132 of the Revised Code, in addition to all other interest 62529
charges and penalties, all taxes imposed under this chapter or 62530
Chapter 5748. of the Revised Code and remaining unpaid after they 62531
become due, except combined amounts due of one dollar or less, 62532
bear interest at the rate per annum prescribed by section 5703.47 62533
of the Revised Code until paid or until the day an assessment is 62534
issued under section 5747.13 of the Revised Code, whichever occurs 62535
first. 62536

(4) If the commissioner considers it necessary in order to 62537

ensure the payment of the tax imposed by section 5747.02 of the Revised Code or any tax imposed under Chapter 5748. of the Revised Code, the commissioner may require returns and payments to be made otherwise than as provided in this section.

(H) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that date by United States mail to the agency, officer, or office with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. An electronically transmitted return shall be considered filed when transmitted as prescribed by the tax commissioner.

If a payment is required to be made by electronic funds transfer pursuant to section 5747.072 of the Revised Code, or if a payment is made electronically under division (G)(2) of this section, the payment is considered to be made when the payment is received by the treasurer of state or credited to an account designated by the treasurer of state for the receipt of tax payments.

"The date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the United States postal service.

(I) The amounts withheld by the employer pursuant to section 5747.06 of the Revised Code shall be allowed to the recipient of the compensation as credits against payment of the appropriate taxes imposed on the recipient by section 5747.02 and under Chapter 5748. of the Revised Code.

(J) If, in accordance with division (D) of this section, a pass-through entity elects to file a single return and if any investor is required to file the return and make the payment of taxes required by this chapter on account of the investor's other income that is not included in a single return filed by a pass-through entity, the investor is entitled to a refundable credit equal to the investor's proportionate share of the tax paid by the pass-through entity on behalf of the investor. The investor shall claim the credit for the investor's taxable year in which or with which ends the taxable year of the pass-through entity. Nothing in this chapter shall be construed to allow any credit provided in this chapter to be claimed more than once. For the purposes of computing any interest, penalty, or interest penalty, the investor shall be deemed to have paid the refundable credit provided by this division on the day that the pass-through entity paid the estimated tax or the tax giving rise to the credit.

Sec. 5747.09. (A) As used in this section:

(1) "Estimated taxes" means the amount that the taxpayer estimates to be the taxpayer's combined tax liability under this chapter and Chapter 5748. of the Revised Code for the current taxable year.

(2) "Tax liability" means the total taxes due for the taxable year, after allowing any credit to which the taxpayer is entitled, but prior to applying any estimated tax payment, withholding payment, or refund from another tax year.

(3) "Taxes paid" include payments of estimated taxes made under division (C) of this section, taxes withheld from the taxpayer's compensation, and tax refunds applied by the taxpayer in payment of estimated taxes.

(B) Every taxpayer shall make declaration of estimated taxes

for the current taxable year, in the form that the tax 62599
commissioner shall prescribe, if the amount payable as estimated 62600
taxes, less the amount to be withheld from the taxpayer's 62601
compensation, is more than five hundred dollars. For purposes of 62602
this section, taxes withheld from compensation shall be considered 62603
as paid in equal amounts on each payment date unless the taxpayer 62604
establishes the dates on which all amounts were actually withheld, 62605
in which case the amounts withheld shall be considered as paid on 62606
the dates on which the amounts were actually withheld. Taxpayers 62607
filing joint returns pursuant to section 5747.08 of the Revised 62608
Code shall file joint declarations of estimated taxes. A taxpayer 62609
may amend a declaration under rules prescribed by the 62610
commissioner. A taxpayer having a taxable year of less than twelve 62611
months shall make a declaration under rules prescribed by the 62612
commissioner. The declaration of estimated taxes for an individual 62613
under a disability shall be made and filed by the person who is 62614
required to file the income tax return. 62615

The (1) Except as provided in division (B)(2) of this 62616
section, the declaration of estimated taxes shall be filed on or 62617
before the fifteenth day of April of each year or on or before the 62618
fifteenth day of the fourth month after the taxpayer becomes 62619
subject to tax for the first time. 62620

Taxpayers reporting on a fiscal year basis shall file a 62621
declaration on or before the fifteenth day of the fourth month 62622
after the beginning of each fiscal year or period. 62623

The declaration shall be filed upon a form prescribed by the 62624
commissioner and furnished by or obtainable from the commissioner. 62625

The original declaration or any subsequent amendment may be 62626
increased or decreased on or before any subsequent quarterly 62627
payment day as provided in this section. 62628

(2) If, for the immediately preceding taxable year, the 62629

taxpayer fully complies with division (G)(2) of section 5747.08 of 62630
the Revised Code, then "last" shall be substituted for "fifteenth" 62631
each time it appears in division (B)(1) of this section. 62632

(C) The required portion of the tax liability for the taxable 62633
year that shall be paid through estimated taxes made payable to 62634
the treasurer of state, including the application of tax refunds 62635
to estimated taxes, and withholding on or before the applicable 62636
payment date shall be as follows: 62637

(1) ~~On~~ (a) Except as provided in division (C)(1)(b) of this 62638
section, on or before the fifteenth day of the fourth month after 62639
the beginning of the taxable year, twenty-two and one-half per 62640
cent of the tax liability for the taxable year; 62641

(b) If, for the immediately preceding taxable year, the 62642
taxpayer fully complies with division (G)(2) of section 5747.08 of 62643
the Revised Code, then "last" shall be substituted for "fifteenth" 62644
in division (C)(1)(a) of this section. 62645

(2) On or before the fifteenth day of the sixth month after 62646
the beginning of the taxable year, forty-five per cent of the tax 62647
liability for the taxable year; 62648

(3) On or before the fifteenth day of the ninth month after 62649
the beginning of the taxable year, sixty-seven and one-half per 62650
cent of the tax liability for the taxable year; 62651

(4) On or before the fifteenth day of the first month of the 62652
following taxable year, ninety per cent of the tax liability for 62653
the taxable year. 62654

~~When an amended return has been filed, the unpaid balancee~~ 62655
~~shown due on the amended return shall be paid in equal~~ 62656
~~installments on or before the remaining payment dates.~~ 62657

~~On~~ Except as otherwise provided in division (G)(2) of section 62658
5747.08 of the Revised Code, on or before the fifteenth day of the 62659

fourth month of the year following that for which the declaration 62660
or amended declaration was filed, an annual return shall be filed 62661
and any balance which may be due shall be paid with the return in 62662
accordance with that section ~~5747.08 of the Revised Code.~~ 62663

(D) In the case of any underpayment of estimated taxes, an 62664
interest penalty shall be added to the taxes for the tax year at 62665
the rate per annum prescribed by section 5703.47 of the Revised 62666
Code upon the amount of underpayment for the period of 62667
underpayment, unless the underpayment is due to reasonable cause 62668
as described in division (E) of this section. The amount of the 62669
underpayment shall be determined as follows: 62670

(1) For the first payment of estimated taxes each year, 62671
twenty-two and one-half per cent of the tax liability, less the 62672
amount of taxes paid by the date prescribed for that payment; 62673

(2) For the second payment of estimated taxes each year, 62674
forty-five per cent of the tax liability, less the amount of taxes 62675
paid by the date prescribed for that payment; 62676

(3) For the third payment of estimated taxes each year, 62677
sixty-seven and one-half per cent of the tax liability, less the 62678
amount of taxes paid by the date prescribed for that payment; 62679

(4) For the fourth payment of estimated taxes each year, 62680
ninety per cent of the tax liability, less the amount of taxes 62681
paid by the date prescribed for that payment. 62682

The period of the underpayment shall run from the day the 62683
estimated payment was required to be made to the date on which the 62684
payment is made. For purposes of this section, a payment of 62685
estimated taxes on or before any payment date shall be considered 62686
a payment of any previous underpayment only to the extent the 62687
payment of estimated taxes exceeds the amount of the payment 62688
presently required to be paid to avoid any penalty. 62689

The interest penalty imposed under division (D) of this 62690

section shall be in lieu of any other interest charge or penalty 62691
imposed for failure to file an estimated return and make estimated 62692
payments as required by this section. 62693

(E) An underpayment of estimated taxes determined under 62694
division (D) of this section shall be due to reasonable cause and 62695
the interest penalty imposed by this section shall not be added to 62696
the taxes for the tax year if either of the following apply: 62697

(1) The amount of tax that was paid equals at least ninety 62698
per cent of the tax liability for the current taxable year, 62699
determined by annualizing the income received during the year up 62700
to the end of the month immediately preceding the month in which 62701
the payment is due; 62702

(2) The amount of tax that was paid equals at least one 62703
hundred per cent of the tax liability shown on the return of the 62704
taxpayer for the preceding taxable year, provided that the 62705
immediately preceding taxable year reflected a period of twelve 62706
months and the taxpayer filed a return under section 5747.08 of 62707
the Revised Code for that year. 62708

The tax commissioner may waive the requirement for filing a 62709
declaration of estimated taxes for any class of taxpayers after 62710
finding that the waiver is reasonable and proper in view of 62711
administrative costs and other factors. 62712

Sec. 5747.30. (A) As used in this section: 62713

(1) "Commercial printer," "commercial printing," "contract 62714
for printing," "intangible property located at the premises of a 62715
commercial printer," and "printed material" have the same meanings 62716
as in division (D) of section 5733.09 of the Revised Code. 62717

(2) "Related member" has the same meaning as in ~~division~~ 62718
~~(A)(6)~~ of section 5733.042 of the Revised Code without regard to 62719
division (B) of that section. 62720

(B) Except as provided in divisions (C) and (D) of this section, a nonresident not otherwise subject to the tax imposed by section 5747.02 of the Revised Code for a taxable year does not become subject to that tax for the taxable year solely by reason of any one or more of the following occurring in this state during all or any portion of the taxable year:

(1) Ownership by the nonresident, a pass-through entity in which the nonresident has directly or indirectly invested, or a related member of the nonresident, of tangible personal property or intangible property located during all or any portion of the taxable year at the premises of a commercial printer with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing with respect to such property;

(2) Sales by the nonresident, a pass-through entity in which the nonresident has directly or indirectly invested, or a related member of the nonresident, of property produced at and shipped or distributed from the premises of a commercial printer with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing with respect to such property;

(3) Activities of employees, officers, agents, or contractors of the nonresident, a pass-through entity in which the nonresident has directly or indirectly invested, or a related member of the nonresident, on the premises of a commercial printer with which the nonresident, pass-through entity, or nonresident's related

member has a contract for printing or the premises of a commercial 62753
printer's related member with which the nonresident, pass-through 62754
entity, or nonresident's related member has a contract for 62755
printing, where such activities are directly and solely related to 62756
quality control, distribution, or printing services, or any 62757
combination thereof, performed by or at the direction of the 62758
commercial printer or the commercial printer's related member. 62759

(C) The exemption under this section does not apply to a 62760
taxable year during any portion of which the individual or estate 62761
directly or indirectly owned or invested in a pass-through entity 62762
which during any portion of the taxable year of the individual or 62763
estate owned or used all or a portion of its property or capital 62764
in this state or earned or received income in this state or was 62765
doing business in this state. The exemption under this section 62766
also does not apply to any individual or estate for a taxable year 62767
during any portion of which the individual or estate directly or 62768
indirectly owned or invested in a pass-through entity which during 62769
any portion of such taxable year was a related member to any 62770
entity which during any portion of such taxable year owned or used 62771
all or a portion of its property or capital in this state or 62772
earned or received income in this state or was doing business in 62773
this state. 62774

(D) With respect to allowing the exemption under this 62775
section, the tax commissioner shall be guided by the doctrines of 62776
"economic reality," "sham transaction," "step transaction," and 62777
"substance over form." A nonresident shall bear the burden of 62778
establishing by a preponderance of the evidence that any 62779
transaction giving rise to an exemption claimed under this section 62780
did not have as a principal purpose the avoidance of any portion 62781
of the tax imposed by section 5747.02 of the Revised Code. 62782

Application of the doctrines listed in this division is not 62783
limited to this section. 62784

Sec. 5747.98. (A) To provide a uniform procedure for calculating the amount of tax due under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:	62785 62786 62787 62788
(1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;	62789 62790
(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;	62791 62792
(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	62793 62794
(4) The dependent care credit under section 5747.054 of the Revised Code;	62795 62796
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	62797 62798
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	62799 62800
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	62801 62802
(8) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	62803 62804
(9) The campaign contribution credit under section 5747.29 of the Revised Code;	62805 62806
(10) The twenty-dollar personal exemption credit <u>credits</u> under section 5747.022 of the Revised Code;	62807 62808
(11) <u>The credit for adoption of a minor child under section 5747.37 of the Revised Code;</u>	62809 62810
<u>(12)</u> The joint filing credit under division (G) of section 5747.05 of the Revised Code;	62811 62812

(12) <u>(13)</u> The nonresident credit under division (A) of section 5747.05 of the Revised Code;	62813 62814
(13) <u>(14)</u> The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	62815 62816
(14) The credit for employers that enter into agreements with child day care centers under section 5747.34 of the Revised Code;	62817 62818
(15) The credit for employers that reimburse employee child day care expenses under section 5747.36 of the Revised Code;	62819 62820
(16) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	62821 62822
(17) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	62823 62824
(18) <u>(15)</u> The job retention credit under division (B) of section 5747.058 of the Revised Code;	62825 62826
(19) <u>(16)</u> The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;	62827 62828 62829 62830
(20) <u>(17)</u> The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;	62831 62832 62833
(21) <u>(18)</u> The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	62834 62835 62836
(22) <u>(19)</u> The job training credit under section 5747.39 of the Revised Code;	62837 62838
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	62839 62840
(24) <u>(20)</u> The credit for the eligible costs associated with a	62841

voluntary action under section 5747.32 of the Revised Code;	62842
(25) (21) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	62843 62844
(26) (22) The ethanol plant investment credit under section 5747.75 of the Revised Code;	62845 62846
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	62847 62848
(28) (23) The export sales credit under section 5747.057 of the Revised Code;	62849 62850
(29) (24) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	62851 62852 62853
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	62854 62855
(31) (25) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	62856 62857
(32) (26) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	62858 62859
(33) (27) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	62860 62861 62862
(34) (28) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;	62863 62864
(35) (29) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code.	62865 62866 62867 62868
(B) For any credit, except the credits enumerated in divisions (A) (31) (25) to (35) (29) of this section and the credit	62869 62870

granted under division (I) of section 5747.08 of the Revised Code, 62871
the amount of the credit for a taxable year shall not exceed the 62872
tax due after allowing for any other credit that precedes it in 62873
the order required under this section. Any excess amount of a 62874
particular credit may be carried forward if authorized under the 62875
section creating that credit. Nothing in this chapter shall be 62876
construed to allow a taxpayer to claim, directly or indirectly, a 62877
credit more than once for a taxable year. 62878

Sec. 5748.01. As used in this chapter: 62879

(A) "School district income tax" means an income tax adopted 62880
under one of the following: 62881

(1) Former section 5748.03 of the Revised Code as it existed 62882
prior to its repeal by Amended Substitute House Bill No. 291 of 62883
the 115th general assembly; 62884

(2) Section 5748.03 of the Revised Code as enacted in 62885
Substitute Senate Bill No. 28 of the 118th general assembly; 62886

(3) Section 5748.08 of the Revised Code as enacted in Amended 62887
Substitute Senate Bill No. 17 of the 122nd general assembly. 62888

(B) "Individual" means an individual subject to the tax 62889
levied by section 5747.02 of the Revised Code. 62890

(C) "Estate" means an estate subject to the tax levied by 62891
section 5747.02 of the Revised Code. 62892

(D) "Taxable year" means a taxable year as defined in 62893
division (M) of section 5747.01 of the Revised Code. 62894

(E) "Taxable income" means: 62895

(1) In the case of an individual, adjusted gross income for 62896
the taxable year as defined in division (A) of section 5747.01 of 62897
the Revised Code, less the exemptions provided by section ~~5747.02~~ 62898
5747.025 of the Revised Code; For taxable years beginning after 62899

2005, the exemption amounts under division (E)(1) of this section 62900
shall be the amounts prescribed under section 5747.025 of the 62901
Revised Code as that section existed on December 31, 2005. 62902

(2) In the case of an estate, taxable income for the taxable 62903
year as defined in division (S) of section 5747.01 of the Revised 62904
Code. 62905

(F) Except as provided in section 5747.25 of the Revised 62906
Code, "resident" of the school district means: 62907

(1) An individual who is a resident of this state as defined 62908
in division (I) of section 5747.01 of the Revised Code during all 62909
or a portion of the taxable year and who, during all or a portion 62910
of such period of state residency, is domiciled in the school 62911
district or lives in and maintains a permanent place of abode in 62912
the school district; 62913

(2) An estate of a decedent who, at the time of death, was 62914
domiciled in the school district. 62915

(G) "School district income" means: 62916

(1) With respect to an individual, the portion of the taxable 62917
income of an individual that is received by the individual during 62918
the portion of the taxable year that the individual is a resident 62919
of the school district and the school district income tax is in 62920
effect in that school district. An individual may have school 62921
district income with respect to more than one school district. 62922

(2) With respect to an estate, the taxable income of the 62923
estate for the portion of the taxable year that the school 62924
district income tax is in effect in that school district. 62925

(H) "Taxpayer" means an individual or estate having school 62926
district income upon which a school district income tax is 62927
imposed. 62928

(I) "School district purposes" means any of the purposes for 62929

which a tax may be levied pursuant to section 5705.21 of the Revised Code. 62930
62931

Sec. 5749.02. (A) For the purpose of providing revenue to administer the state's ~~coal~~ mining and reclamation regulatory program, to meet the environmental and resource management needs of this state, and to reclaim land affected by mining, an excise tax is hereby levied on the privilege of engaging in the severance of natural resources from the soil or water of this state. The tax shall be imposed upon the severer and shall be: 62932
62933
62934
62935
62936
62937
62938

(1) ~~Seven~~ Ten cents per ton of coal; 62939

(2) Four cents per ton of salt; 62940

(3) Two cents per ton of limestone or dolomite; 62941

(4) Two cents per ton of sand and gravel; 62942

(5) Ten cents per barrel of oil; 62943

(6) Two and one-half cents per thousand cubic feet of natural gas; 62944
62945

(7) One cent per ton of clay, sandstone or conglomerate, shale, gypsum, or quartzite. 62946
62947

(B) Of the moneys received by the treasurer of state from the tax levied in division (A)(1) of this section, ~~six~~ four and ~~three-tenths~~ four-tenths per cent shall be credited to the geological mapping fund created in section 1505.09 of the Revised Code, ~~fourteen~~ nine and ~~two-tenths~~ nine-tenths per cent shall be credited to the reclamation forfeiture fund created in section 1513.18 of the Revised Code, ~~fifty-seven~~ seventy and ~~nine-tenths~~ six-tenths per cent shall be credited to the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code, and the remainder shall be credited to the unreclaimed lands fund created in section 1513.30 of the Revised Code. When, at any time during a fiscal year, the chief of 62948
62949
62950
62951
62952
62953
62954
62955
62956
62957
62958
62959

the division of mineral resources management finds that the 62960
balance of the coal mining administration and reclamation reserve 62961
fund is below two million dollars, the chief shall certify that 62962
fact to the director of budget and management. Upon receipt of the 62963
chief's certification, the director shall direct the treasurer of 62964
state to instead credit to the coal mining administration and 62965
reclamation reserve fund during the remainder of the fiscal year 62966
for which the certification is made the ~~fourteen~~ fifteen and 62967
~~two-tenths~~ one-tenth per cent of the moneys collected from the tax 62968
levied in division (A)(1) of this section and otherwise required 62969
by this division to be credited to the ~~reclamation forfeiture~~ 62970
unreclaimed lands fund. 62971

~~Fifteen~~ Fifty per cent of the moneys received by the 62972
treasurer of state from the tax levied in division (A)(2) of this 62973
section shall be credited to the geological mapping fund and the 62974
remainder shall be credited to the ~~unreclaimed lands~~ surface 62975
mining fund created in section 1514.06 of the Revised Code. 62976

Of the moneys received by the treasurer of state from the tax 62977
levied in divisions (A)(3) and (4) of this section, ~~seven and~~ 62978
~~five tenths~~ fifteen per cent shall be credited to the geological 62979
mapping fund, ~~forty two and five tenths~~ two per cent shall be 62980
credited to the unreclaimed lands fund, and the remainder shall be 62981
credited to the surface mining fund ~~created in section 1514.06 of~~ 62982
~~the Revised Code.~~ 62983

Of the moneys received by the treasurer of state from the tax 62984
levied in divisions (A)(5) and (6) of this section, ninety per 62985
cent shall be credited to the oil and gas well fund created in 62986
section 1509.02 of the Revised Code and ten per cent shall be 62987
credited to the geological mapping fund. ~~All~~ 62988

Fifty per cent of the moneys received by the treasurer of 62989
state from the tax levied in division (A)(7) of this section shall 62990
be credited to the geological mapping fund, and the remainder 62991

shall be credited to the surface mining fund. 62992

(C) For the purpose of paying the state's expenses for 62993
reclaiming mined lands that the operator failed to reclaim under a 62994
coal mining and reclamation permit issued under Chapter 1513. of 62995
the Revised Code, ~~or under a surface mining permit issued under~~ 62996
~~Chapter 1514. of the Revised Code,~~ for which the operator's bond 62997
is not sufficient to pay the state's expense for reclamation, 62998
there is hereby levied an excise tax on the privilege of engaging 62999
in the severance of coal from the soil or water of this state in 63000
addition to the taxes levied by divisions (A)(1) and (D) of this 63001
section. The tax shall be imposed at the rate of one cent per ton 63002
of coal. Moneys received by the treasurer of state from the tax 63003
levied under this division shall be credited to the reclamation 63004
forfeiture fund created in section 1513.18 of the Revised Code. 63005

(D) For the purpose of paying the state's expenses for 63006
reclaiming coal mined lands that the operator failed to reclaim in 63007
accordance with Chapter 1513. of the Revised Code under a coal 63008
mining and reclamation permit ~~issued after April 10, 1972, but~~ 63009
~~before September 1, 1981,~~ for which the operator's bond is not 63010
sufficient to pay the state's expense for reclamation and paying 63011
the expenses for administering the state's coal mining and 63012
reclamation regulatory program, there is hereby levied an excise 63013
tax on the privilege of engaging in the severance of coal from the 63014
soil or water of this state in addition to the taxes levied by 63015
divisions (A)(1) and (C) of this section. The tax shall be imposed 63016
at the rate of ~~one cent~~ five cents per ton of coal as prescribed 63017
in this division. Moneys received by the treasurer of state from 63018
the tax levied by this division shall be credited to the 63019
reclamation forfeiture fund created in section 1513.18 of the 63020
Revised Code. 63021

When, at the close of any fiscal year, the chief finds that 63022
the balance of the reclamation forfeiture fund, plus estimated 63023

transfers to it from the coal mining and reclamation reserve fund 63024
under section 1513.181 of the Revised Code, plus the estimated 63025
revenues from the tax levied by this division for the remainder of 63026
the calendar year that includes the close of the fiscal year, are 63027
sufficient to complete the reclamation of such lands, the purposes 63028
for which the tax under this division is levied shall be deemed 63029
accomplished at the end of that calendar year. The chief, within 63030
thirty days after the close of the fiscal year, shall certify 63031
those findings to the tax commissioner, and the tax shall cease to 63032
be imposed after the last day of that calendar year. 63033

(E) On the day fixed for the payment of the severance taxes 63034
required to be paid by this section, the taxes with any penalties 63035
or interest on them shall become a lien on all property of the 63036
taxpayer in this state whether the property is employed by the 63037
taxpayer in the prosecution of its business or is in the hands of 63038
an assignee, trustee, or receiver for the benefit of creditors or 63039
stockholders. The lien shall continue until the taxes and any 63040
penalties or interest thereon are paid. 63041

Upon failure of the taxpayer to pay a tax on the day fixed 63042
for payment, the tax commissioner may file, for which no filing 63043
fee shall be charged, in the office of the county recorder in each 63044
county in this state in which the taxpayer owns or has a 63045
beneficial interest in real estate, notice of the lien containing 63046
a brief description of the real estate. The lien shall not be 63047
valid as against any mortgagee, purchaser, or judgment creditor 63048
whose rights have attached prior to the time the notice is filed 63049
in the county in which the real estate that is the subject of the 63050
mortgage, purchase, or judgment lien is located. The notice shall 63051
be recorded in a book kept by the recorder called the "severance 63052
tax lien record" and indexed under the name of the taxpayer 63053
charged with the tax. When the tax has been paid, the tax 63054
commissioner shall furnish to the taxpayer an acknowledgement of 63055

payment, which the taxpayer may record with the recorder of each 63056
county in which notice of the lien has been filed. 63057

Sec. 6101.09. Within thirty days after the conservancy 63058
district has been declared a corporation by the court, the clerk 63059
of such court shall transmit to the secretary of state, to the 63060
director of the department of natural resources, and to the county 63061
recorder in each of the counties having lands in the district, 63062
copies of the findings and the decree of the court incorporating 63063
the district. The same shall be filed and recorded in the office 63064
of the secretary of state in the same manner as articles of 63065
incorporation are required to be filed and recorded under the 63066
general law concerning corporations. Copies shall also be filed 63067
and become permanent records in the office of the recorder of each 63068
county in which a part of the district lies. Each recorder shall 63069
receive a base fee of one dollar for filing and preserving such 63070
copies and a housing trust fund fee of one dollar pursuant to 63071
section 317.36 of the Revised Code, and the secretary of state 63072
shall receive for filing and for recording the copies a fee of 63073
twenty-five dollars. 63074

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) 63075
of this section, on and after January 1, 1994, no person shall 63076
operate or maintain a public water system in this state without a 63077
license issued by the director of environmental protection. A 63078
person who operates or maintains a public water system on January 63079
1, 1994, shall obtain an initial license under this section in 63080
accordance with the following schedule: 63081

(1) If the public water system is a community water system, 63082
not later than January 31, 1994; 63083

(2) If the public water system is not a community water 63084
system and serves a nontransient population, not later than 63085

January 31, 1994; 63086

(3) If the public water system is not a community water 63087
system and serves a transient population, not later than January 63088
31, 1995. 63089

A person proposing to operate or maintain a new public water 63090
system after January 1, 1994, in addition to complying with 63091
section 6109.07 of the Revised Code and rules adopted under it, 63092
shall submit an application for an initial license under this 63093
section to the director prior to commencing operation of the 63094
system. 63095

A license or license renewal issued under this section shall 63096
be renewed annually. Such a license or license renewal shall 63097
expire on the thirtieth day of January in the year following its 63098
issuance. A license holder that proposes to continue operating the 63099
public water system for which the license or license renewal was 63100
issued shall apply for a license renewal at least thirty days 63101
prior to that expiration date. 63102

The director shall adopt, and may amend and rescind, rules in 63103
accordance with Chapter 119. of the Revised Code establishing 63104
procedures governing and information to be included on 63105
applications for licenses and license renewals under this section. 63106
Through June 30, ~~2004~~ 2006, each application shall be accompanied 63107
by the appropriate fee established under division (M) of section 63108
3745.11 of the Revised Code, provided that an applicant for an 63109
initial license who is proposing to operate or maintain a new 63110
public water system after January 1, 1994, shall submit a fee that 63111
equals a prorated amount of the appropriate fee established under 63112
that division for the remainder of the licensing year. 63113

(B) Not later than thirty days after receiving a completed 63114
application and the appropriate license fee for an initial license 63115
under division (A) of this section, the director shall issue the 63116

license for the public water system. Not later than thirty days 63117
after receiving a completed application and the appropriate 63118
license fee for a license renewal under division (A) of this 63119
section, the director shall do one of the following: 63120

(1) Issue the license renewal for the public water system; 63121

(2) Issue the license renewal subject to terms and conditions 63122
that the director determines are necessary to ensure compliance 63123
with this chapter and rules adopted under it; 63124

(3) Deny the license renewal if the director finds that the 63125
public water system was not operated in substantial compliance 63126
with this chapter and rules adopted under it. 63127

(C) The director may suspend or revoke a license or license 63128
renewal issued under this section if the director finds that the 63129
public water system was not operated in substantial compliance 63130
with this chapter and rules adopted under it. The director shall 63131
adopt, and may amend and rescind, rules in accordance with Chapter 63132
119. of the Revised Code governing such suspensions and 63133
revocations. 63134

(D)(1) As used in division (D) of this section, "church" 63135
means a fellowship of believers, congregation, society, 63136
corporation, convention, or association that is formed primarily 63137
or exclusively for religious purposes and that is not formed or 63138
operated for the private profit of any person. 63139

(2) This section does not apply to a church that operates or 63140
maintains a public water system solely to provide water for that 63141
church or for a campground that is owned by the church and 63142
operated primarily or exclusively for members of the church and 63143
their families. A church that, on or before March 5, 1996, has 63144
obtained a license under this section for such a public water 63145
system need not obtain a license renewal under this section. 63146

(E) This section does not apply to any public or nonpublic 63147

school that meets minimum standards of the state board of 63148
education that operates or maintains a public water system solely 63149
to provide water for that school. 63150

Sec. 6111.044. Upon receipt of an application for an 63151
injection well drilling permit, an injection well operating 63152
permit, a renewal of an injection well operating permit, or a 63153
modification of an injection well drilling permit, operating 63154
permit, or renewal of an operating permit, the director of 63155
environmental protection shall determine whether the application 63156
is complete and demonstrates that the activities for which the 63157
permit, renewal permit, or modification is requested will comply 63158
with the Federal Water Pollution Control Act and regulations 63159
adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 63160
(1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted 63161
under it; and this chapter and the rules adopted under it. If the 63162
application demonstrates that the proposed activities will not 63163
comply or will pose an unreasonable risk of inducing seismic 63164
activity, inducing geologic fracturing, or contamination of an 63165
underground source of drinking water, the director shall deny the 63166
application. If the application does not make the required 63167
demonstrations, the director shall return it to the applicant with 63168
an indication of those matters about which a required 63169
demonstration was not made. If the director determines that the 63170
application makes the required demonstrations, the director shall 63171
transmit copies of the application and all of the accompanying 63172
maps, data, samples, and information to the chief of the division 63173
of mineral resources management, the chief of the division of 63174
geological survey, and the chief of the division of water in the 63175
department of natural resources. 63176

The chief of the division of geological survey shall comment 63177
upon the application if the chief determines that the proposed 63178
well or injection will present an unreasonable risk of loss or 63179

damage to valuable mineral resources. If the chief submits 63180
comments on the application, those comments shall be accompanied 63181
by an evaluation of the geological factors upon which the comments 63182
are based, including fractures, faults, earthquake potential, and 63183
the porosity and permeability of the injection zone and confining 63184
zone, and by the documentation supporting the evaluation. The 63185
director shall take into consideration the chief's comments, and 63186
the accompanying evaluation of geologic factors and supporting 63187
documentation, when considering the application. The director 63188
shall provide written notice to the chief of the director's 63189
decision on the application and, if the chief's comments are not 63190
included in the permit, renewal permit, or modification, of the 63191
director's rationale for not including them. 63192

The chief of the division of mineral resources management 63193
shall comment upon the application if the chief determines that 63194
the proposed well or injection will present an unreasonable risk 63195
that waste or contamination of recoverable oil or gas in the earth 63196
will occur. If the chief submits comments on the application, 63197
those comments shall be accompanied by an evaluation of the oil or 63198
gas reserves that, in the best professional judgment of the chief, 63199
are recoverable and will be adversely affected by the proposed 63200
well or injection, and by the documentation supporting the 63201
evaluation. The director shall take into consideration the chief's 63202
comments, and the accompanying evaluation and supporting 63203
documentation, when considering the application. The director 63204
shall provide written notice to the chief of the director's 63205
decision on the application and, if the chief's comments are not 63206
included in the permit, renewal permit, or modification, of the 63207
director's rationale for not including them. 63208

The chief of the division of water shall assist the director 63209
in determining whether all underground sources of drinking water 63210
in the area of review of the proposed well or injection have been 63211

identified and correctly delineated in the application. If the 63212
application fails to identify or correctly delineate an 63213
underground source of drinking water, the chief shall provide 63214
written notice of that fact to the director. 63215

The chief of the division of mineral resources management 63216
also shall review the application as follows: 63217

If the application concerns the drilling or conversion of a 63218
well or the injection into a well that is not or is not to be 63219
located within five thousand feet of the excavation and workings 63220
of a mine, the chief of the division of mineral resources 63221
management shall note upon the application that it has been 63222
examined by the division of mineral resources management, retain a 63223
copy of the application and map, and immediately return a copy of 63224
the application to the director. 63225

If the application concerns the drilling or conversion of a 63226
well or the injection into a well that is or is to be located 63227
within five thousand feet, but more than five hundred feet from 63228
the surface excavations and workings of a mine, the chief of the 63229
division of mineral resources management immediately shall notify 63230
the owner or lessee of the mine that the application has been 63231
filed and send to the owner or lessee a copy of the map 63232
accompanying the application setting forth the location of the 63233
well. The chief of the division of mineral resources management 63234
shall note on the application that the notice has been sent to the 63235
owner or lessee of the mine, retain a copy of the application and 63236
map, and immediately return a copy of the application to the 63237
director with the chief's notation on it. 63238

If the application concerns the drilling or conversion of a 63239
well or the injection into a well that is or is to be located 63240
within five thousand feet of the underground excavations and 63241
workings of a mine or within five hundred feet of the surface 63242
excavations and workings of a mine, the chief of the division of 63243

mineral resources management immediately shall notify the owner or 63244
lessee of the mine that the application has been filed and send to 63245
the owner or lessee a copy of the map accompanying the application 63246
setting forth the location of the well. If the owner or lessee 63247
objects to the application, the owner or lessee shall notify the 63248
chief of the division of mineral resources management of the 63249
objection, giving the reasons, within six days after the receipt 63250
of the notice. If the chief of the division of mineral resources 63251
management receives no objections from the owner or lessee of the 63252
mine within ten days after the receipt of the notice by the owner 63253
or lessee, or if in the opinion of the chief of the division of 63254
mineral resources management the objections offered by the owner 63255
or lessee are not sufficiently well-founded, the chief shall 63256
retain a copy of the application and map and return a copy of the 63257
application to the director with any applicable notes concerning 63258
it. 63259

If the chief of the division of mineral resources management 63260
receives an objection from the owner or lessee of the mine as to 63261
the application, within ten days after receipt of the notice by 63262
the owner or lessee, and if in the opinion of the chief the 63263
objection is well-founded, the chief shall disapprove the 63264
application and immediately return it to the director together 63265
with the chief's reasons for the disapproval. The director 63266
promptly shall notify the applicant for the permit, renewal 63267
permit, or modification of the disapproval. The applicant may 63268
appeal the disapproval of the application by the chief of the 63269
division of mineral resources management to the ~~reclamation~~ 63270
environmental review appeals commission created under section 63271
~~1513.05~~ 3745.02 of the Revised Code, and the commission shall hear 63272
the appeal in accordance with section 1513.13 of the Revised Code. 63273
The appeal shall be filed within thirty days from the date the 63274
applicant receives notice of the disapproval. No comments 63275
concerning or disapproval of an application shall be delayed by 63276

the chief of the division of mineral resources management for more 63277
than fifteen days from the date of sending of notice to the mine 63278
owner or lessee as required by this section. 63279

The director shall not approve an application for an 63280
injection well drilling permit, an injection well operating 63281
permit, a renewal of an injection well operating permit, or a 63282
modification of an injection well drilling permit, operating 63283
permit, or renewal of an operating permit for a well that is or is 63284
to be located within three hundred feet of any opening of any mine 63285
used as a means of ingress, egress, or ventilation for persons 63286
employed in the mine, nor within one hundred feet of any building 63287
or flammable structure connected with the mine and actually used 63288
as a part of the operating equipment of the mine, unless the chief 63289
of the division of mineral resources management determines that 63290
life or property will not be endangered by drilling and operating 63291
the well in that location. 63292

Upon review by the chief of the division of mineral resources 63293
management, the chief of the division of geological survey, and 63294
the chief of the division of water, and if the chief of the 63295
division of mineral resources management has not disapproved the 63296
application, the director shall issue a permit, renewal permit, or 63297
modification with any terms and conditions that may be necessary 63298
to comply with the Federal Water Pollution Control Act and 63299
regulations adopted under it; the "Safe Drinking Water Act," 88 63300
Stat. 1661 (1974), 42 U.S.C.A. 300(f) as amended, and regulations 63301
adopted under it; and this chapter and the rules adopted under it. 63302
The director shall not issue a permit, renewal permit, or 63303
modification to an applicant if the applicant or persons 63304
associated with the applicant have engaged in or are engaging in a 63305
substantial violation of this chapter that is endangering or may 63306
endanger human health or the environment or if, in the case of an 63307
applicant for an injection well drilling permit, the applicant, at 63308

the time of applying for the permit, did not hold an injection 63309
well operating permit or renewal of an injection well drilling 63310
permit and failed to demonstrate sufficient expertise and 63311
competency to operate the well in compliance with the applicable 63312
provisions of this chapter. 63313

If the director receives a disapproval from the chief of the 63314
division of mineral resources management regarding an application 63315
for an injection well drilling or operating permit, renewal 63316
permit, or modification, if required, the director shall issue an 63317
order denying the application. 63318

The director need not issue a proposed action under section 63319
3745.07 of the Revised Code or hold an adjudication hearing under 63320
that section and Chapter 119. of the Revised Code before issuing 63321
or denying a permit, renewal permit, or modification of a permit 63322
or renewal permit. Before issuing or renewing a permit to drill or 63323
operate a class I injection well or a modification of it, the 63324
director shall propose the permit, renewal permit, or modification 63325
in draft form and shall hold a public hearing to receive public 63326
comment on the draft permit, renewal permit, or modification. At 63327
least fifteen days before the public hearing on a draft permit, 63328
renewal permit, or modification, the director shall publish notice 63329
of the date, time, and location of the public hearing in at least 63330
one newspaper of general circulation serving the area where the 63331
well is or is to be located. The proposing of such a draft permit, 63332
renewal permit, or modification does not constitute the issuance 63333
of a proposed action under section 3745.07 of the Revised Code, 63334
and the holding of the public hearing on such a draft permit, 63335
renewal permit, or modification does not constitute the holding of 63336
an adjudication hearing under that section and Chapter 119. of the 63337
Revised Code. Appeals of orders other than orders of the chief of 63338
the division of mineral resources management shall be taken ~~under~~ 63339
in accordance with the procedures established in sections 3745.04 63340

to 3745.08 of the Revised Code. 63341

The director may order that an injection well drilling permit 63342
or an injection well operating permit or renewal permit be 63343
suspended and that activities under it cease after determining 63344
that those activities are occurring in violation of law, rule, 63345
order, or term or condition of the permit. Upon service of a copy 63346
of the order upon the permit holder or the permit holder's 63347
authorized agent or assignee, the permit and activities under it 63348
shall be suspended immediately without prior hearing and shall 63349
remain suspended until the violation is corrected and the order of 63350
suspension is lifted. If a violation is the second within a 63351
one-year period, the director, after a hearing, may revoke the 63352
permit. 63353

The director may order that an injection well drilling permit 63354
or an injection well operating permit or renewal permit be 63355
suspended and that activities under it cease if the director has 63356
reasonable cause to believe that the permit would not have been 63357
issued if the information available at the time of suspension had 63358
been available at the time a determination was made by one of the 63359
agencies acting under authority of this section. Upon service of a 63360
copy of the order upon the permit holder or the permit holder's 63361
authorized agent or assignee, the permit and activities under it 63362
shall be suspended immediately without prior hearing, but a permit 63363
may not be suspended for that reason without prior hearing unless 63364
immediate suspension is necessary to prevent waste or 63365
contamination of oil or gas, comply with the Federal Water 63366
Pollution Control Act and regulations adopted under it; the "Safe 63367
Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as 63368
amended, and regulations adopted under it; and this chapter and 63369
the rules adopted under it, or prevent damage to valuable mineral 63370
resources, prevent contamination of an underground source of 63371
drinking water, or prevent danger to human life or health. If 63372

after a hearing the director determines that the permit would not 63373
have been issued if the information available at the time of the 63374
hearing had been available at the time a determination was made by 63375
one of the agencies acting under authority of this section, the 63376
director shall revoke the permit. 63377

When a permit has been revoked, the permit holder or other 63378
person responsible for it immediately shall plug the well in the 63379
manner required by the director. 63380

The director may issue orders to prevent or require cessation 63381
of violations of this section, section 6111.043, 6111.045, 63382
6111.046, or 6111.047 of the Revised Code, rules adopted under any 63383
of those sections, and terms or conditions of permits issued under 63384
any of them. The orders may require the elimination of conditions 63385
caused by the violation. 63386

Sec. 6111.06. (A) All proceedings of the director of 63387
environmental protection, or ~~his~~ of the director's officers or 63388
agents, under sections 6111.01 to 6111.08 ~~and sections 6111.31 to~~ 63389
~~6111.38~~ of the Revised Code, including the adoption, issuance, 63390
modification, rescission, or revocation of rules and regulations, 63391
permits, orders, and notices, and the conduct of hearings, except 63392
standards of water quality adopted pursuant to section 6111.041 of 63393
the Revised Code, shall be subject to and governed by sections 63394
119.01 to 119.13, and Chapter 3745. of the Revised Code. 63395

(B) The director shall not refuse to issue a permit, nor 63396
modify or revoke a permit already issued, unless the applicant or 63397
permit holder has been afforded an opportunity for a hearing prior 63398
to the refusal to issue the permit or prior to the modification or 63399
revocation of the permit. 63400

(C) Whenever the director officially determines that an 63401
emergency exists requiring immediate action to protect the public 63402
health or welfare, ~~he~~ the director may, without notice or hearing, 63403

issue an order reciting the existence of the emergency and 63404
requiring that such action be taken as is necessary to meet the 63405
emergency. Notwithstanding division (A) of this section, such 63406
order shall be effective immediately. Any person to whom such 63407
order is directed shall comply therewith immediately, but on 63408
application to the director shall be afforded a hearing as soon as 63409
possible, and not later than twenty days after such application. 63410
On the basis of such hearing, the director shall continue such 63411
order in effect, revoke it, or modify it. No such emergency order 63412
shall remain in effect for more than sixty days after its 63413
issuance. 63414

Sec. 6115.09. Within thirty days after the sanitary district 63415
has been declared a corporation by the court, the clerk of such 63416
court shall transmit to the secretary of state, and to the county 63417
recorder in each of the counties having lands in said district, 63418
copies of the findings and the decree of the court incorporating 63419
said district. The same shall be filed and recorded in the office 63420
of the secretary of state in the same manner as articles of 63421
incorporation are required to be filed and recorded under the 63422
general law concerning corporations. Copies shall also be filed 63423
and become permanent records in the office of the recorder of each 63424
county in which a part of the district lies. Each recorder shall 63425
receive a base fee of one dollar for filing and preserving such 63426
copies and a housing trust fund fee of one dollar pursuant to 63427
section 317.36 of the Revised Code, and the secretary of state 63428
shall receive for filing and for recording said copies such fees 63429
as are provided by law for like services in similar cases. 63430

Sec. 6301.05. The chief elected official of a ~~municipal~~ 63431
~~corporation that is the type of local area defined in division~~ 63432
~~(A)(1) of section 6301.01 of the Revised Code or is in the type of~~ 63433
~~local area defined in division (A)(3) of that section shall enter~~ 63434

into a written ~~partnership grant~~ agreement with the director of 63435
job and family services in accordance with section ~~5101.213~~ 63436
5101.211 of the Revised Code. 63437

~~The board of county commissioners of a county that is the 63438
type of local area defined in division (A)(2) of section 6301.01 63439
of the Revised Code or is in the type of local area defined in 63440
division (A)(3) of that section shall enter into a written 63441
partnership agreement with the director of job and family services 63442
in accordance with section 5101.21 of the Revised Code. 63443~~

Sec. 6301.07. (A) Every workforce policy board, with the 63444
agreement of the chief elected officials of the local area, and 63445
after holding public hearings that allow public comment and 63446
testimony, shall prepare a workforce development plan ~~and 63447
incorporate that plan into and attach that plan to the partnership 63448
agreement required under section 6301.05 of the Revised Code. The 63449
plan shall accomplish all of the following: 63450~~

(1) Identify the workforce investment needs of businesses in 63451
the local area, identify projected employment opportunities, and 63452
identify the job skills necessary to obtain those opportunities; 63453

(2) Identify the local area's workforce development needs for 63454
youth, dislocated workers, adults, displaced homemakers, incumbent 63455
workers, and any other group of workers identified by the 63456
workforce policy board; 63457

(3) Determine the distribution of workforce development 63458
resources and funding to be distributed for each workforce 63459
development activity to meet the identified needs, utilizing the 63460
funds allocated pursuant to the "Workforce Investment Act of 63461
1998," 112 Stat. 936, 29 U.S.C.A. 2801, as amended; 63462

(4) Give priority to youth receiving independent living 63463
services pursuant to sections 2151.81 to 2151.84 of the Revised 63464

Code when determining distribution of workforce development resources and workforce development activity funding;	63465 63466
(5) Review the minimum curriculum required by the state workforce policy board for certifying training providers and identify any additional curriculum requirements to include in contracts between the training providers and the chief elected officials of the local area;	63467 63468 63469 63470 63471
(6) Establish performance standards for service providers that reflect local workforce development needs;	63472 63473
(7) Describe any other information the chief elected officials of the local area require.	63474 63475
(B) A workforce policy board may provide policy guidance and recommendations to the chief elected officials of a local area for any workforce development activities.	63476 63477 63478
(C) Nothing in this section prohibits the chief elected officials of a local area from assigning, through a partnership agreement, any duties in addition to the duties under this section to a workforce policy board, except that a workforce policy board cannot contract with itself for the direct provision of services in its local area. A workforce policy board may consult with the chief elected officials of its local area and make recommendations regarding the workforce development activities provided in its local area at any time.	63479 63480 63481 63482 63483 63484 63485 63486 63487
Section 2. That existing sections 9.01, 9.83, 101.82, 102.02, 109.57, 109.572, 109.71, 117.45, 119.035, 121.04, 121.084, 122.011, 122.04, 122.08, 122.17, 122.25, 122.651, 122.658, 122.87, 122.88, 123.01, 124.03, 125.05, 125.15, 125.91, 125.92, 125.93, 125.95, 125.96, 125.98, 126.11, 127.16, 131.23, 131.35, 147.01, 147.37, 149.011, 149.33, 149.331, 149.332, 149.333, 149.34, 149.35, 153.65, 163.06, 164.27, 165.09, 173.14, 173.20, 173.21,	63488 63489 63490 63491 63492 63493 63494

173.26, 173.55, 173.57, 175.03, 175.21, 175.22, 183.02, 183.28, 63495
307.202, 307.86, 307.98, 307.981, 307.987, 311.17, 317.32, 63496
319.302, 321.24, 323.01, 323.13, 323.152, 329.03, 329.04, 329.05, 63497
329.051, 329.06, 340.03, 505.69, 715.013, 717.01, 718.01, 718.02, 63498
718.03, 718.05, 901.17, 901.21, 902.11, 921.151, 927.69, 1309.109, 63499
1321.21, 1333.99, 1501.04, 1502.02, 1503.011, 1503.05, 1503.99, 63500
1509.06, 1509.08, 1513.02, 1513.07, 1513.13, 1513.131, 1513.14, 63501
1513.16, 1514.021, 1514.071, 1514.09, 1514.10, 1519.05, 1521.06, 63502
1521.063, 1531.26, 1533.08, 1533.10, 1533.101, 1533.11, 1533.111, 63503
1533.112, 1533.12, 1533.13, 1533.151, 1533.19, 1533.23, 1533.301, 63504
1533.32, 1533.35, 1533.40, 1533.54, 1533.631, 1533.632, 1533.71, 63505
1533.82, 1561.31, 1561.35, 1561.351, 1561.51, 1563.13, 1563.42, 63506
1702.59, 2101.16, 2117.06, 2117.25, 2151.3529, 2151.3530, 2151.83, 63507
2151.84, 2305.234, 2329.66, 2505.13, 2715.041, 2715.045, 2716.13, 63508
2743.02, 2915.01, 2921.13, 2925.44, 2933.43, 2935.01, 2949.091, 63509
3111.04, 3111.72, 3119.01, 3123.952, 3125.12, 3125.25, 3301.33, 63510
3301.52, 3301.53, 3301.54, 3301.55, 3301.57, 3301.58, 3301.80, 63511
3301.801, 3313.979, 3314.074, 3316.08, 3317.012, 3317.013, 63512
3317.022, 3317.023, 3317.024, 3317.029, 3317.0213, 3317.0217, 63513
3317.03, 3317.032, 3317.05, 3317.06, 3317.064, 3317.07, 3317.10, 63514
3317.11, 3317.16, 3317.50, 3317.51, 3319.22, 3319.235, 3323.16, 63515
3332.04, 3333.12, 3383.01, 3383.07, 3501.18, 3501.30, 3505.08, 63516
3517.092, 3701.021, 3701.022, 3701.141, 3701.145, 3702.31, 63517
3702.68, 3702.74, 3705.23, 3705.24, 3709.09, 3710.05, 3711.021, 63518
3721.02, 3721.19, 3721.56, 3722.15, 3722.16, 3727.17, 3733.43, 63519
3733.45, 3734.02, 3734.05, 3734.12, 3734.123, 3734.124, 3734.18, 63520
3734.28, 3734.42, 3734.44, 3734.46, 3734.57, 3735.67, 3735.671, 63521
3737.81, 3745.04, 3745.11, 3745.14, 3745.40, 3746.13, 3747.16, 63522
3748.07, 3748.13, 3770.07, 3770.10, 3770.99, 3773.33, 3773.43, 63523
3781.19, 4104.01, 4104.02, 4104.04, 4104.06, 4104.07, 4104.08, 63524
4104.15, 4104.18, 4104.19, 4104.20, 4104.41, 4104.44, 4104.45, 63525
4104.46, 4105.17, 4112.15, 4115.03, 4117.02, 4117.10, 4117.14, 63526
4123.27, 4123.41, 4141.04, 4141.09, 4141.23, 4301.12, 4301.30, 63527

4301.42, 4301.43, 4303.02, 4303.021, 4303.03, 4303.04, 4303.05, 63528
4303.06, 4303.07, 4303.08, 4303.09, 4303.10, 4303.11, 4303.12, 63529
4303.121, 4303.13, 4303.14, 4303.141, 4303.15, 4303.151, 4303.16, 63530
4303.17, 4303.171, 4303.18, 4303.181, 4303.182, 4303.183, 63531
4303.184, 4303.19, 4303.20, 4303.201, 4303.202, 4303.203, 63532
4303.204, 4303.21, 4303.22, 4303.23, 4303.231, 4305.01, 4503.06, 63533
4505.06, 4509.60, 4511.75, 4707.071, 4707.072, 4707.10, 4709.12, 63534
4717.07, 4717.09, 4719.01, 4723.06, 4723.08, 4723.082, 4725.44, 63535
4725.45, 4725.48, 4725.50, 4725.51, 4725.52, 4725.57, 4731.65, 63536
4731.71, 4734.15, 4736.12, 4741.17, 4743.05, 4747.05, 4747.06, 63537
4747.07, 4747.10, 4751.06, 4751.07, 4759.08, 4771.22, 4779.08, 63538
4779.17, 4779.18, 4903.24, 4905.79, 4905.91, 4919.79, 4931.45, 63539
4931.47, 4931.48, 4973.17, 4981.01, 4981.03, 4981.031, 4981.032, 63540
4981.033, 4981.04, 4981.06, 4981.07, 4981.08, 4981.09, 4981.091, 63541
4981.10, 4981.11, 4981.12, 4981.13, 4981.131, 4981.14, 4981.15, 63542
4981.16, 4981.17, 4981.18, 4981.19, 4981.20, 4981.21, 4981.22, 63543
4981.23, 4981.25, 4981.26, 4981.28, 4981.29, 4981.30, 4981.31, 63544
4981.32, 4981.33, 4981.34, 4981.35, 4981.361, 5101.11, 5101.14, 63545
5101.141, 5101.142, 5101.144, 5101.145, 5101.146, 5101.16, 63546
5101.162, 5101.18, 5101.181, 5101.21, 5101.60, 5101.61, 5101.611, 63547
5101.62, 5101.63, 5101.65, 5101.67, 5101.68, 5101.69, 5101.70, 63548
5101.211, 5101.212, 5101.22, 5101.24, 5101.36, 5101.58, 5101.59, 63549
5101.75, 5101.80, 5101.83, 5101.97, 5101.99, 5103.031, 5103.033, 63550
5103.034, 5103.036, 5103.037, 5103.038, 5103.0312, 5103.0313, 63551
5103.0314, 5103.0315, 5103.0316, 5103.154, 5104.01, 5104.011, 63552
5104.02, 5104.30, 5104.32, 5104.42, 5107.02, 5107.30, 5107.37, 63553
5107.40, 5107.60, 5108.01, 5108.03, 5108.06, 5108.07, 5108.09, 63554
5108.10, 5111.019, 5111.0112, 5111.02, 5111.021, 5111.022, 63555
5111.03, 5111.06, 5111.111, 5111.17, 5111.171, 5111.20, 5111.204, 63556
5111.21, 5111.22, 5111.231, 5111.25, 5111.252, 5111.26, 5111.263, 63557
5111.28, 5111.29, 5111.30, 5111.31, 5111.32, 5111.33, 5111.34, 63558
5111.85, 5111.87, 5111.872, 5111.94, 5111.99, 5112.03, 5112.08, 63559
5112.17, 5112.31, 5112.99, 5115.01, 5115.02, 5115.03, 5115.04, 63560

5115.05, 5115.07, 5115.10, 5115.11, 5115.13, 5115.15, 5115.20, 63561
5119.61, 5119.611, 5123.01, 5123.051, 5123.19, 5123.61, 5123.801, 63562
5126.042, 5126.12, 5126.31, 5139.36, 5139.87, 5153.16, 5153.163, 63563
5153.60, 5153.69, 5153.72, 5153.78, 5310.15, 5501.03, 5502.13, 63564
5519.01, 5703.054, 5703.19, 5705.19, 5707.03, 5709.01, 5709.20, 63565
5709.21, 5709.22, 5709.25, 5709.26, 5709.27, 5709.62, 5709.63, 63566
5709.632, 5709.64, 5709.67, 5709.84, 5711.02, 5711.13, 5711.22, 63567
5711.27, 5711.33, 5713.07, 5713.08, 5713.081, 5713.082, 5715.27, 63568
5715.39, 5717.02, 5717.03, 5719.07, 5725.01, 5725.14, 5725.25, 63569
5725.26, 5727.01, 5727.06, 5727.111, 5727.15, 5727.24, 5727.25, 63570
5727.26, 5727.27, 5727.28, 5727.30, 5727.32, 5727.33, 5727.38, 63571
5727.56, 5728.04, 5728.99, 5733.01, 5733.04, 5733.042, 5733.05, 63572
5733.051, 5733.056, 5733.057, 5733.059, 5733.06, 5733.065, 63573
5733.066, 5733.069, 5733.09, 5733.18, 5733.22, 5733.33, 5733.39, 63574
5733.40, 5733.45, 5733.98, 5735.05, 5735.14, 5735.15, 5735.19, 63575
5735.23, 5735.26, 5735.291, 5735.30, 5735.99, 5739.01, 5739.011, 63576
5739.02, 5739.03, 5739.071, 5739.12, 5739.17, 5739.33, 5741.01, 63577
5741.02, 5743.02, 5743.32, 5745.01, 5745.02, 5745.04, 5747.01, 63578
5747.02, 5747.022, 5747.025, 5747.05, 5747.057, 5747.08, 5747.09, 63579
5747.30, 5747.98, 5748.01, 5749.02, 6101.09, 6109.21, 6111.044, 63580
6111.06, 6115.09, 6301.05, and 6301.07 and sections 122.12, 63581
125.931, 125.932, 125.933, 125.934, 125.935, 131.38, 179.01, 63582
179.02, 179.03, 179.04, 319.311, 718.11, 718.12, 1333.96, 1513.05, 63583
1513.10, 1533.06, 1533.39, 1553.01, 1553.02, 1553.03, 1553.04, 63584
1553.05, 1553.06, 1553.07, 1553.08, 1553.09, 1553.10, 1553.99, 63585
3301.31, 3301.581, 3302.041, 3701.142, 3701.144, 4104.42, 4104.43, 63586
4141.044, 4141.045, 5101.213, 5101.251, 5101.71, 5101.72, 5108.05, 63587
5111.017, 5111.173, 5111.221, 5111.23, 5111.231, 5111.24, 63588
5111.241, 5111.251, 5111.255, 5111.257, 5111.261, 5111.262, 63589
5111.264, 5111.27, 5111.291, 5111.34, 5115.011, 5115.012, 5115.06, 63590
5115.061, 5502.49, 5709.231, 5709.30, 5709.31, 5709.32, 5709.33, 63591
5709.34, 5709.35, 5709.36, 5709.37, 5709.45, 5709.46, 5709.47, 63592
5709.48, 5709.49, 5709.50, 5709.51, 5709.52, 5709.64, 5709.65, 63593

5709.66, 5727.39, 5727.44, 5733.052, 5733.055, 5733.061, 5733.064, 63594
5733.068, 5733.111, 5733.32, 5733.36, 5733.38, 5733.43, 5733.44, 63595
5735.33, 5739.012, 5739.35, 5741.011, 5741.24, 5743.45, 5743.46, 63596
5747.051, 5747.131, 5747.28, 5747.34, 5747.36, 5747.38, 5747.60, 63597
6111.31, 6111.311, 6111.32, 6111.34, 6111.35, 6111.36, 6111.37, 63598
6111.38, and 6111.39 of the Revised Code are hereby repealed. 63599

Section 3.01. That the version of section 921.22 of the 63600
Revised Code that is scheduled to take effect July 1, 2004, be 63601
amended to read as follows: 63602

Sec. 921.22. The pesticide program fund is hereby created in 63603
the state treasury. ~~All~~ The portion of the money in the fund that 63604
is collected under this chapter shall be used to carry out the 63605
purposes of this chapter. The portion of the money in the fund 63606
that is collected under Chapter 927. of the Revised Code shall be 63607
used to carry out the purposes of that chapter, provided that the 63608
money that is collected under section 927.701 of the Revised Code 63609
shall be used to carry out the purposes of that section. The fund 63610
shall consist of fees collected under sections 921.01 to 921.15 63611
and section 927.69 of the Revised Code, money collected under 63612
section 927.701 of the Revised Code, and all fines, penalties, 63613
costs, and damages, except court costs, that are collected by 63614
either the director of agriculture or the attorney general in 63615
consequence of any violation of this chapter. 63616

Section 3.02. That the existing version of section 921.22 of 63617
the Revised Code that is scheduled to take effect July 1, 2004, is 63618
hereby repealed. 63619

Section 3.03. Sections 3.01 and 3.02 of this act take effect 63620
July 1, 2004. 63621

Section 3.04. That the version of section 3332.04 of the Revised Code that is scheduled to take effect on July 1, 2003, be amended to read as follows:

Sec. 3332.04. The state board of career colleges and schools may appoint an executive director and such other staff as may be required for the performance of the board's duties and provide necessary facilities. In selecting an executive director, the board shall appoint an individual with a background or experience in the regulation of commerce, business, or education. The board may also arrange for services and facilities to be provided by the state board of education and the Ohio board of regents. All receipts of the board shall be deposited in the ~~career colleges and schools operating fund, which is hereby created in the state treasury. Moneys in the fund shall be used solely for the administration and enforcement of Chapter 3332. of the Revised Code. All investment earnings on the fund shall be credited to the~~ to the credit of the occupational licensing and regulatory fund.

Section 3.05. That the version of section 3332.04 of the Revised Code that is scheduled to take effect on July 1, 2003, is hereby repealed.

Section 3.06. Sections 3.04 and 3.05 of this act take effect July 1, 2003.

Section 3.07. That the version of section 4511.75 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or trackless trolley upon meeting or overtaking from either direction

any school bus stopped for the purpose of receiving or discharging 63649
any school child, person attending programs offered by community 63650
boards of mental health and county boards of mental retardation 63651
and developmental disabilities, or child attending a program 63652
offered by a head start agency, shall stop at least ten feet from 63653
the front or rear of the school bus and shall not proceed until 63654
such school bus resumes motion, or until signaled by the school 63655
bus driver to proceed. 63656

It is no defense to a charge under this division that the 63657
school bus involved failed to display or be equipped with an 63658
automatically extended stop warning sign as required by division 63659
(B) of this section. 63660

(B) Every school bus shall be equipped with amber and red 63661
visual signals meeting the requirements of section 4511.771 of the 63662
Revised Code, and an automatically extended stop warning sign of a 63663
type approved by the state board of education, which shall be 63664
actuated by the driver of the bus whenever but only whenever the 63665
bus is stopped or stopping on the roadway for the purpose of 63666
receiving or discharging school children, persons attending 63667
programs offered by community boards of mental health and county 63668
boards of mental retardation and developmental disabilities, or 63669
children attending programs offered by head start agencies. A 63670
school bus driver shall not actuate the visual signals or the stop 63671
warning sign in designated school bus loading areas where the bus 63672
is entirely off the roadway or at school buildings when children 63673
or persons attending programs offered by community boards of 63674
mental health and county boards of mental retardation and 63675
developmental disabilities are loading or unloading at curbside or 63676
at buildings when children attending programs offered by head 63677
start agencies are loading or unloading at curbside. The visual 63678
signals and stop warning sign shall be synchronized or otherwise 63679
operated as required by rule of the board. 63680

(C) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle, streetcar, or trackless trolley need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle, streetcar, or trackless trolley overtaking the school bus shall comply with division (A) of this section.

(D) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.

(E) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child's or person's residence side of the road.

(F)(1) Whoever violates division (A) of this section may be fined an amount not to exceed five hundred dollars. A person who is issued a citation for a violation of division (A) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.

(2) In addition to and independent of any other penalty 63712
provided by law, the court or mayor may impose upon an offender 63713
who violates this section a class seven suspension of the 63714
offender's driver's license, commercial driver's license, 63715
temporary instruction permit, probationary license, or nonresident 63716
operating privilege from the range specified in division (A)(7) of 63717
section 4510.02 of the Revised Code. When a license is suspended 63718
under this section, the court or mayor shall cause the offender to 63719
deliver the license to the court, and the court or clerk of the 63720
court immediately shall forward the license to the registrar of 63721
motor vehicles, together with notice of the court's action. 63722

(G) As used in this section: 63723

(1) "Head start agency" has the same meaning as in ~~division~~ 63724
~~(A)(1)~~ of section 3301.31 of the Revised Code. 63725

(2) "School bus," as used in relation to children who attend 63726
a program offered by a head start agency, means a bus that is 63727
owned and operated by a head start agency, is equipped with an 63728
automatically extended stop warning sign of a type approved by the 63729
state board of education, is painted the color and displays the 63730
markings described in section 4511.77 of the Revised Code, and is 63731
equipped with amber and red visual signals meeting the 63732
requirements of section 4511.771 of the Revised Code, irrespective 63733
of whether or not the bus has fifteen or more children aboard at 63734
any time. "School bus" does not include a van owned and operated 63735
by a head start agency, irrespective of its color, lights, or 63736
markings. 63737

Section 3.08. That the existing version of section 4511.75 of 63738
the Revised Code that is scheduled to take effect January 1, 2004, 63739
is hereby repealed. 63740

Section 3.09. Sections 3.07 and 3.08 of this act take effect 63741

January 1, 2004. 63742

Section 3.10. That the versions of sections 5739.03, 5739.12, 63743
and 5741.02 of the Revised Code that are scheduled to take effect 63744
July 1, 2003, be amended to read as follows: 63745

Sec. 5739.03. (A) Except as provided in section 5739.05 of 63746
the Revised Code, the tax imposed by or pursuant to section 63747
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall 63748
be paid by the consumer to the vendor, and each vendor shall 63749
collect from the consumer, as a trustee for the state of Ohio, the 63750
full and exact amount of the tax payable on each taxable sale, in 63751
the manner and at the times provided as follows: 63752

(1) If the price is, at or prior to the provision of the 63753
service or the delivery of possession of the thing sold to the 63754
consumer, paid in currency passed from hand to hand by the 63755
consumer or the consumer's agent to the vendor or the vendor's 63756
agent, the vendor or the vendor's agent shall collect the tax with 63757
and at the same time as the price; 63758

(2) If the price is otherwise paid or to be paid, the vendor 63759
or the vendor's agent shall, at or prior to the provision of the 63760
service or the delivery of possession of the thing sold to the 63761
consumer, charge the tax imposed by or pursuant to section 63762
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to 63763
the account of the consumer, which amount shall be collected by 63764
the vendor from the consumer in addition to the price. Such sale 63765
shall be reported on and the amount of the tax applicable thereto 63766
shall be remitted with the return for the period in which the sale 63767
is made, and the amount of the tax shall become a legal charge in 63768
favor of the vendor and against the consumer. 63769

(B)(1) If any sale is claimed to be exempt under division (E) 63770
of section 5739.01 of the Revised Code or under section 5739.02 of 63771

the Revised Code, with the exception of divisions (B)(1) to ~~(11)~~ 63772
~~or (28)(10)~~ of section 5739.02 of the Revised Code, the consumer 63773
must provide to the vendor, and the vendor must obtain from the 63774
consumer, a certificate specifying the reason that the sale is not 63775
legally subject to the tax. The certificate shall be provided 63776
either in a hard copy form or electronic form, as prescribed by 63777
the tax commissioner. If the transaction is claimed to be exempt 63778
under division (B)~~(13)~~(12) of section 5739.02 of the Revised Code, 63779
the exemption certificate shall be provided by both the contractor 63780
and the contractee. Such contractee shall be deemed to be the 63781
consumer of all items purchased under such claim of exemption if 63782
it is subsequently determined that the exemption is not properly 63783
claimed. The certificate shall be in such form as the tax 63784
commissioner by regulation prescribes. 63785

(2) The vendor shall maintain records, including exemption 63786
certificates, of all sales on which a consumer has claimed an 63787
exemption, and provide them to the tax commissioner on request. 63788

(3) The tax commissioner may establish an identification 63789
system whereby the commissioner issues an identification number to 63790
a consumer that is exempt from payment of the tax. The consumer 63791
must present the number to the vendor if any sale is claimed to be 63792
exempt as provided in this section. 63793

(4) If no certificate is provided or obtained within the 63794
period for filing the return for the period in which such sale is 63795
consummated, it shall be presumed that the tax applies. Failure to 63796
have so provided, or to have so obtained, a certificate shall not 63797
prevent a vendor or consumer from establishing that the sale is 63798
not subject to the tax within one hundred twenty days of the 63799
giving of notice by the commissioner of intention to levy an 63800
assessment, in which event the tax shall not apply. 63801

(5) Certificates need not be obtained nor provided where the 63802
identity of the consumer is such that the transaction is never 63803

subject to the tax imposed or where the item of tangible personal 63804
property sold or the service provided is never subject to the tax 63805
imposed, regardless of use, or when the sale is in interstate 63806
commerce. 63807

(C) As used in this division, "contractee" means a person who 63808
seeks to enter or enters into a contract or agreement with a 63809
contractor or vendor for the construction of real property or for 63810
the sale and installation onto real property of tangible personal 63811
property. 63812

Any contractor or vendor may request from any contractee a 63813
certification of what portion of the property to be transferred 63814
under such contract or agreement is to be incorporated into the 63815
realty and what portion will retain its status as tangible 63816
personal property after installation is completed. The contractor 63817
or vendor shall request the certification by certified mail 63818
delivered to the contractee, return receipt requested. Upon 63819
receipt of such request and prior to entering into the contract or 63820
agreement, the contractee shall provide to the contractor or 63821
vendor a certification sufficiently detailed to enable the 63822
contractor or vendor to ascertain the resulting classification of 63823
all materials purchased or fabricated by the contractor or vendor 63824
and transferred to the contractee. This requirement applies to a 63825
contractee regardless of whether the contractee holds a direct 63826
payment permit under section 5739.031 of the Revised Code or 63827
provides to the contractor or vendor an exemption certificate as 63828
provided under this section. 63829

For the purposes of the taxes levied by this chapter and 63830
Chapter 5741. of the Revised Code, the contractor or vendor may in 63831
good faith rely on the contractee's certification. Notwithstanding 63832
division (B) of section 5739.01 of the Revised Code, if the tax 63833
commissioner determines that certain property certified by the 63834
contractee as tangible personal property pursuant to this division 63835

is, in fact, real property, the contractee shall be considered to 63836
be the consumer of all materials so incorporated into that real 63837
property and shall be liable for the applicable tax, and the 63838
contractor or vendor shall be excused from any liability on those 63839
materials. 63840

If a contractee fails to provide such certification upon the 63841
request of the contractor or vendor, the contractor or vendor 63842
shall comply with the provisions of this chapter and Chapter 5741. 63843
of the Revised Code without the certification. If the tax 63844
commissioner determines that such compliance has been performed in 63845
good faith and that certain property treated as tangible personal 63846
property by the contractor or vendor is, in fact, real property, 63847
the contractee shall be considered to be the consumer of all 63848
materials so incorporated into that real property and shall be 63849
liable for the applicable tax, and the construction contractor or 63850
vendor shall be excused from any liability on those materials. 63851

This division does not apply to any contract or agreement 63852
where the tax commissioner determines as a fact that a 63853
certification under this division was made solely on the decision 63854
or advice of the contractor or vendor. 63855

(D) Notwithstanding division (B) of section 5739.01 of the 63856
Revised Code, whenever the total rate of tax imposed under this 63857
chapter is increased after the date after a construction contract 63858
is entered into, the contractee shall reimburse the construction 63859
contractor for any additional tax paid on tangible property 63860
consumed or services received pursuant to the contract. 63861

(E) A vendor who files a petition for reassessment contesting 63862
the assessment of tax on sales for which the vendor obtained no 63863
valid exemption certificates and for which the vendor failed to 63864
establish that the sales were properly not subject to the tax 63865
during the one-hundred-twenty-day period allowed under division 63866
(B) of this section, may present to the tax commissioner 63867

additional evidence to prove that the sales were properly subject 63868
to a claim of exception or exemption. The vendor shall file such 63869
evidence within ninety days of the receipt by the vendor of the 63870
notice of assessment, except that, upon application and for 63871
reasonable cause, the period for submitting such evidence shall be 63872
extended thirty days. 63873

The commissioner shall consider such additional evidence in 63874
reaching the final determination on the assessment and petition 63875
for reassessment. 63876

(F) Whenever a vendor refunds to the consumer the full price 63877
of an item of tangible personal property on which the tax imposed 63878
under this chapter has been paid, the vendor shall also refund the 63879
full amount of the tax paid. 63880

Sec. 5739.12. ~~Each (A) Except as provided in division (B) of~~ 63881
~~this section, each~~ person who has or is required to have a 63882
vendor's license, on or before the twenty-third day of each month, 63883
shall make and file a return for the preceding month, ~~on forms in~~ 63884
an electronic format prescribed by the tax commissioner, and shall 63885
pay electronically, in the manners specified by the tax 63886
commissioner, the tax shown on the return to be due. ~~The Nothing~~ 63887
in this division shall be construed as affecting section 5739.122 63888
of the Revised Code, and that section takes precedence over this 63889
section. 63890

(B) Unless the commissioner adopts rules under section 63891
5703.054 of the Revised Code that require vendors to file returns 63892
in an electronic format or make payments electronically, a vendor, 63893
on or before the tenth day of each month, shall file a return for 63894
the preceding month on paper forms prescribed by the tax 63895
commissioner and shall pay the tax shown on the return to be due. 63896

(C)(1) The return shall show the amount of tax due from the 63897
vendor to the state for the period covered by the return and such 63898

other information as the commissioner deems necessary for the 63899
proper administration of this chapter. The commissioner may extend 63900
the time for making and filing returns and paying the tax, ~~and may~~ 63901
~~require that the return for the last month of any annual or~~ 63902
~~semiannual period, as determined by the commissioner, be a~~ 63903
~~reconciliation return detailing the vendor's sales activity for~~ 63904
~~the preceding annual or semiannual period. The reconciliation~~ 63905
~~return shall be filed by the last day of the month following the~~ 63906
~~last month of the annual or semiannual period. The commissioner~~ 63907
may remit all or any part of amounts or penalties that may become 63908
due under this chapter and may adopt rules relating thereto. ~~Such~~ 63909

(2) A paper return filed under division (B) of this section 63910
shall be filed by mailing it to the tax commissioner, together 63911
with payment of the amount of tax shown to be due thereon after 63912
deduction of any discount provided for under this section. 63913
Remittance shall be made payable to the treasurer of state. The 63914
paper return shall be considered filed when received by the tax 63915
commissioner, and ~~the~~ payment shall be considered made when 63916
received by the ~~tax~~ commissioner or when credited to an account 63917
designated by the treasurer of state or the tax commissioner. 63918

(3) A return filed in an electronic format under division (A) 63919
of this section is considered filed when transmitted, as 63920
prescribed by the commissioner. A payment made electronically 63921
under division (A) of this section is considered made when the 63922
payment is received by the treasurer of state or credited to an 63923
account designated by the treasurer of state for the receipt of 63924
tax payments. 63925

(D)(1) If the return is filed and the amount of tax shown 63926
thereon to be due is paid on or before the date such return is 63927
required to be filed, the vendor shall be entitled to a the 63928
following discount ~~of three fourths of one per cent of the amount~~ 63929
~~shown to be due on the return, but a:~~ 63930

(a) A vendor that is required to remit sales taxes by 63931
electronic funds transfer under section 5739.122 of the Revised 63932
Code is entitled to a discount of one-half of one per cent of the 63933
amount shown on the return to be due. 63934

(b) A vendor that is not required to remit sales taxes by 63935
electronic funds transfer under section 5739.122 of the Revised 63936
Code is entitled to a discount of one per cent of the amount shown 63937
on the return to be due. 63938

A vendor that has selected a certified service provider as 63939
its agent shall not be entitled to the a discount. Amounts 63940

(2) Notwithstanding division (D)(1) of this section, amounts 63941
paid to the clerk of courts pursuant to section 1548.06 or 4505.06 63942
of the Revised Code shall be subject to the three-fourths of one 63943
per-cent a discount of one-half of one per cent. The discount 63944
shall be in consideration for prompt payment to the clerk of 63945
courts and for other services performed by the vendor in the 63946
collection of the tax. 63947

(E) Upon application to the commissioner, a vendor who is 63948
required to file monthly returns may be relieved of the 63949
requirement to report and pay the actual tax due, provided that 63950
the vendor agrees to remit to the tax commissioner payment of not 63951
less than an amount determined by the commissioner to be the 63952
average monthly tax liability of the vendor, based upon a review 63953
of the returns or other information pertaining to such vendor for 63954
a period of not less than six months nor more than two years 63955
immediately preceding the filing of the application. Vendors who 63956
agree to the above conditions shall make and file an annual or 63957
semiannual reconciliation return, as prescribed by the 63958
commissioner. The reconciliation return shall be filed by mailing 63959
or delivering it to the tax commissioner, together with payment of 63960
the amount of tax shown to be due thereon after deduction of any 63961

discount provided in this section. Remittance shall be made 63962
payable to the treasurer of state. Failure of a vendor to comply 63963
with any of the above conditions may result in immediate 63964
reinstatement of the requirement of reporting and paying the 63965
actual tax liability on each monthly return, and the commissioner 63966
may at the commissioner's discretion deny the vendor the right to 63967
report and pay based upon the average monthly liability for a 63968
period not to exceed two years. The amount ascertained by the 63969
commissioner to be the average monthly tax liability of a vendor 63970
may be adjusted, based upon a review of the returns or other 63971
information pertaining to the vendor for a period of not less than 63972
six months nor more than two years preceding such adjustment. 63973

(F) The commissioner may authorize vendors whose tax 63974
liability is not such as to merit monthly returns, as ascertained 63975
by the commissioner upon the basis of administrative costs to the 63976
state, to make and file returns at less frequent intervals. When 63977
returns are filed at less frequent intervals in accordance with 63978
such authorization, the vendor shall be allowed the discount of 63979
three-fourths of one per cent in consideration for prompt payment 63980
with the return, provided the return is filed together with 63981
payment of the amount of tax shown to be due thereon, at the time 63982
specified by the commissioner, but a vendor that has selected a 63983
certified service provider as its agent shall not be entitled to 63984
the discount. 63985

(G) Any vendor who fails to file a return or pay the full 63986
amount of the tax shown on the return to be due under this section 63987
and the rules of the commissioner may, for each such return the 63988
vendor fails to file or each such tax the vendor fails to pay in 63989
full as shown on the return within the period prescribed by this 63990
section and the rules of the commissioner, be required to forfeit 63991
and pay into the state treasury an additional charge not exceeding 63992
fifty dollars or ten per cent of the tax required to be paid for 63993

the reporting period, whichever is greater, as revenue arising 63994
from the tax imposed by this chapter, and such sum may be 63995
collected by assessment in the manner provided in section 5739.13 63996
of the Revised Code. The commissioner may remit all or a portion 63997
of the additional charge and may adopt rules relating to the 63998
imposition and remission of the additional charge. 63999

(H) If the amount required to be collected by a vendor from 64000
consumers is in excess of five per cent of the vendor's receipts 64001
from sales that are taxable under section 5739.02 of the Revised 64002
Code, or in the case of sales subject to a tax levied pursuant to 64003
section 5739.021, 5739.023, or 5739.026 of the Revised Code, in 64004
excess of the percentage equal to the aggregate rate of such taxes 64005
and the tax levied by section 5739.02 of the Revised Code, such 64006
excess shall be remitted along with the remittance of the amount 64007
of tax due under section 5739.10 of the Revised Code. 64008

(I) The commissioner, if the commissioner deems it necessary 64009
in order to insure the payment of the tax imposed by this chapter, 64010
may require returns and payments to be made for other than monthly 64011
periods. The returns shall be signed by the vendor or the vendor's 64012
authorized agent. 64013

(J) Any vendor required to file a return and pay the tax 64014
under this section whose total payment in any year indicated in 64015
division (A) of section 5739.122 of the Revised Code equals or 64016
exceeds the amount shown in that division shall make each payment 64017
required by this section in the second ensuing and each succeeding 64018
year by electronic funds transfer as prescribed by section 64019
5739.122 of the Revised Code, except as otherwise prescribed by 64020
that section. 64021

(K) The commissioner may require any vendor that operates 64022
from multiple locations or has multiple vendor's licenses to 64023
report all tax liability on one consolidated return. 64024

Sec. 5741.02. (A) For the use of the general revenue fund of 64025
the state, an excise tax is hereby levied on the storage, use, or 64026
other consumption in this state of tangible personal property or 64027
the benefit realized in this state of any service provided. The 64028
tax shall be collected pursuant to the schedules in section 64029
5739.025 of the Revised Code. 64030

(B) Each consumer, storing, using, or otherwise consuming in 64031
this state tangible personal property or realizing in this state 64032
the benefit of any service provided, shall be liable for the tax, 64033
and such liability shall not be extinguished until the tax has 64034
been paid to this state; provided, that the consumer shall be 64035
relieved from further liability for the tax if the tax has been 64036
paid to a seller in accordance with section 5741.04 of the Revised 64037
Code or prepaid by the seller in accordance with section 5741.06 64038
of the Revised Code. 64039

(C) The tax does not apply to the storage, use, or 64040
consumption in this state of the following described tangible 64041
personal property or services, nor to the storage, use, or 64042
consumption or benefit in this state of tangible personal property 64043
or services purchased under the following described circumstances: 64044

(1) When the sale of property or service in this state is 64045
subject to the excise tax imposed by sections 5739.01 to 5739.31 64046
of the Revised Code, provided said tax has been paid; 64047

(2) Except as provided in division (D) of this section, 64048
tangible personal property or services, the acquisition of which, 64049
if made in Ohio, would be a sale not subject to the tax imposed by 64050
sections 5739.01 to 5739.31 of the Revised Code; 64051

(3) Property or services, the storage, use, or other 64052
consumption of or benefit from which this state is prohibited from 64053
taxing by the Constitution of the United States, laws of the 64054

United States, or the Constitution of this state. This exemption 64055
shall not exempt from the application of the tax imposed by this 64056
section the storage, use, or consumption of tangible personal 64057
property that was purchased in interstate commerce, but that has 64058
come to rest in this state, provided that fuel to be used or 64059
transported in carrying on interstate commerce that is stopped 64060
within this state pending transfer from one conveyance to another 64061
is exempt from the excise tax imposed by this section and section 64062
5739.02 of the Revised Code; 64063

(4) Transient use of tangible personal property in this state 64064
by a nonresident tourist or vacationer, or a non-business use 64065
within this state by a nonresident of this state, if the property 64066
so used was purchased outside this state for use outside this 64067
state and is not required to be registered or licensed under the 64068
laws of this state; 64069

(5) Tangible personal property or services rendered, upon 64070
which taxes have been paid to another jurisdiction to the extent 64071
of the amount of the tax paid to such other jurisdiction. Where 64072
the amount of the tax imposed by this section and imposed pursuant 64073
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 64074
exceeds the amount paid to another jurisdiction, the difference 64075
shall be allocated between the tax imposed by this section and any 64076
tax imposed by a county or a transit authority pursuant to section 64077
5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 64078
to the respective rates of such taxes. 64079

As used in this subdivision, "taxes paid to another 64080
jurisdiction" means the total amount of retail sales or use tax or 64081
similar tax based upon the sale, purchase, or use of tangible 64082
personal property or services rendered legally, levied by and paid 64083
to another state or political subdivision thereof, or to the 64084
District of Columbia, where the payment of such tax does not 64085
entitle the taxpayer to any refund or credit for such payment. 64086

(6) The transfer of a used manufactured home or used mobile home, as defined by section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(7) Drugs that are or are intended to be distributed free of charge to a practitioner licensed to prescribe, dispense, and administer drugs to a human being in the course of a professional practice and that by law may be dispensed only by or upon the order of such a practitioner.

(D) The tax applies to the storage, use, or other consumption in this state of tangible personal property or services, the acquisition of which at the time of sale was excepted under division (E)(1) of section 5739.01 of the Revised Code from the tax imposed by section 5739.02 of the Revised Code, but which has subsequently been temporarily or permanently stored, used, or otherwise consumed in a taxable manner.

(E)(1) If any transaction is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to ~~(11) or (28)~~(10) of section 5739.02 of the Revised Code, the consumer shall provide to the seller, and the seller shall obtain from the consumer, a certificate specifying the reason that the transaction is not subject to the tax. The certificate shall be provided either in a hard copy form or electronic form, as prescribed by the tax commissioner. If the transaction is claimed to be exempt under division (B)~~(13)~~(12) of section 5739.02 of the Revised Code, the exemption certificate shall be provided by both the contractor and contractee. Such contractee shall be deemed to be the consumer of all items purchased under the claim of exemption if it is subsequently determined that the exemption is not properly claimed. The certificate shall be in such form as the tax commissioner by rule prescribes. The seller shall maintain records, including exemption

certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.

(2) If no certificate is provided or obtained within the period for filing the return for the period in which the transaction is consummated, it shall be presumed that the tax applies. The failure to have so provided or obtained a certificate shall not preclude a seller or consumer from establishing, within one hundred twenty days of the giving of notice by the commissioner of intention to levy an assessment, that the transaction is not subject to the tax.

(F) A seller who files a petition for reassessment contesting the assessment of tax on transactions for which the seller obtained no valid exemption certificates, and for which the seller failed to establish that the transactions were not subject to the tax during the one-hundred-twenty-day period allowed under division (E) of this section, may present to the tax commissioner additional evidence to prove that the transactions were exempt. The seller shall file such evidence within ninety days of the receipt by the seller of the notice of assessment, except that, upon application and for reasonable cause, the tax commissioner may extend the period for submitting such evidence thirty days.

(G) For the purpose of the proper administration of sections 5741.01 to 5741.22 of the Revised Code, and to prevent the evasion of the tax hereby levied, it shall be presumed that any use, storage, or other consumption of tangible personal property in this state is subject to the tax until the contrary is established.

(H)(1) As used in division (H)(2) of this section, "qualifying affiliated group member" and "another qualifying affiliated group member" have the same meanings as in division (D)(6) of section 5739.01 of the Revised Code.

(2) A qualifying affiliated group member that purchases, 64150
leases, or rents tangible personal property from another 64151
qualifying affiliated group member may credit against the tax due 64152
under this section or section 5741.021, 5741.022, or 5741.023 of 64153
the Revised Code, up to the amount of the tax due, any sales, use, 64154
or other similar tax paid to this state or to any other state by 64155
the other qualifying affiliated group member on the purchase, 64156
lease, or rental of the property. 64157

Section 3.11. That the existing versions of sections 5739.03, 64158
5739.12, and 5741.02 of the Revised Code that are scheduled to 64159
take effect July 1, 2003, are hereby repealed. 64160

Section 3.12. Sections 3.10 and 3.11 of this act take effect 64161
July 1, 2003. 64162

Section 4. Except as otherwise provided, all appropriation 64163
items (AI) in this act are appropriated out of any moneys in the 64164
state treasury to the credit of the designated fund that are not 64165
otherwise appropriated. For all appropriations made in this act, 64166
the amounts in the first column are for fiscal year 2004 and the 64167
amounts in the second column are for fiscal year 2005. 64168

FND AI	AI TITLE	APPROPRIATIONS	64169
--------	----------	----------------	-------

Section 5. ACC ACCOUNTANCY BOARD OF OHIO 64170

General Services Fund Group 64171

4J8 889-601 CPA Education	\$	209,510	\$	209,510	64172
Assistance					
4K9 889-609 Operating Expenses	\$	1,010,583	\$	1,055,578	64173
TOTAL GSF General Services Fund					64174
Group	\$	1,220,093	\$	1,265,088	64175
TOTAL ALL BUDGET FUND GROUPS	\$	1,220,093	\$	1,265,088	64176

Section 6. PAY ACCRUED LEAVE LIABILITY				64178
Accrued Leave Liability Fund Group				64179
806 995-666 Accrued Leave Fund	\$ 70,783,792	\$ 78,296,200		64180
807 995-667 Disability Fund	\$ 47,269,465	\$ 50,098,308		64181
TOTAL ALF Accrued Leave Liability				64182
Fund Group	\$ 118,053,257	\$ 128,394,508		64183
Agency Fund Group				64184
808 995-668 State Employee Health	\$ 312,724,593	\$ 371,450,611		64185
Benefit Fund				
809 995-669 Dependent Care	\$ 3,691,169	\$ 4,060,286		64186
Spending Account				
810 995-670 Life Insurance	\$ 1,925,110	\$ 1,992,489		64187
Investment Fund				
811 995-671 Parental Leave Benefit	\$ 4,350,302	\$ 4,785,332		64188
Fund				
TOTAL AGY Agency Fund Group	\$ 332,691,174	\$ 382,288,718		64189
TOTAL ALL BUDGET FUND GROUPS	\$ 440,744,431	\$ 510,683,226		64190
ACCRUED LEAVE LIABILITY FUND				64191
The foregoing appropriation item 995-666, Accrued Leave Fund,				64192
shall be used to make payments from the Accrued Leave Liability				64193
Fund (Fund 806), pursuant to section 125.211 of the Revised Code.				64194
If it is determined by the Director of Budget and Management that				64195
additional amounts are necessary, the amounts are appropriated.				64196
STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND				64197
The foregoing appropriation item 995-667, Disability Fund,				64198
shall be used to make payments from the State Employee Disability				64199
Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the				64200
Revised Code. If it is determined by the Director of Budget and				64201
Management that additional amounts are necessary, the amounts are				64202
appropriated.				64203

STATE EMPLOYEE HEALTH BENEFIT FUND 64204

The foregoing appropriation item 995-668, State Employee 64205
Health Benefit Fund, shall be used to make payments from the State 64206
Employee Health Benefit Fund (Fund 808), pursuant to section 64207
124.87 of the Revised Code. If it is determined by the Director of 64208
Budget and Management that additional amounts are necessary, the 64209
amounts are appropriated. 64210

DEPENDENT CARE SPENDING ACCOUNT 64211

The foregoing appropriation item 995-669, Dependent Care 64212
Spending Account, shall be used to make payments from the 64213
Dependent Care Spending Account (Fund 809) to employees eligible 64214
for dependent care expenses. If it is determined by the Director 64215
of Budget and Management that additional amounts are necessary, 64216
the amounts are appropriated. 64217

LIFE INSURANCE INVESTMENT FUND 64218

The foregoing appropriation item 995-670, Life Insurance 64219
Investment Fund, shall be used to make payments from the Life 64220
Insurance Investment Fund (Fund 810) for the costs and expenses of 64221
the state's life insurance benefit program pursuant to section 64222
125.212 of the Revised Code. If it is determined by the Director 64223
of Budget and Management that additional amounts are necessary, 64224
the amounts are appropriated. 64225

PARENTAL LEAVE BENEFIT FUND 64226

The foregoing appropriation item 995-671, Parental Leave 64227
Benefit Fund, shall be used to make payments from the Parental 64228
Leave Benefit Fund (Fund 811) to employees eligible for parental 64229
leave benefits pursuant to section 124.137 of the Revised Code. If 64230
it is determined by the Director of Budget and Management that 64231
additional amounts are necessary, the amounts are appropriated. 64232

Section 7. ADJ ADJUTANT GENERAL 64233

General Revenue Fund				64234
GRF 745-401	Ohio Military Reserve	\$ 14,889	\$ 15,188	64235
GRF 745-404	Air National Guard	\$ 1,915,177	\$ 1,939,762	64236
GRF 745-409	Central Administration	\$ 3,976,734	\$ 3,899,590	64237
GRF 745-499	Army National Guard	\$ 3,987,516	\$ 4,086,222	64238
GRF 745-502	Ohio National Guard	\$ 100,953	\$ 102,973	64239
Unit Fund				
TOTAL GRF	General Revenue Fund	\$ 9,995,269	\$ 10,043,735	64240
General Services Fund Group				64241
534 745-612	Armory Improvements	\$ 534,304	\$ 534,304	64242
536 745-620	Camp Perry/Buckeye Inn	\$ 1,094,970	\$ 1,094,970	64243
Operations				
537 745-604	ONG Maintenance	\$ 219,826	\$ 219,826	64244
TOTAL GSF	General Services Fund	\$ 1,849,100	\$ 1,849,100	64245
Group				
Federal Special Revenue Fund Group				64246
3E8 745-628	Air National Guard	\$ 11,901,459	\$ 12,174,760	64247
Operations and Maintenance Agreement				
3R8 745-603	Counter Drug	\$ 25,000	\$ 25,000	64248
Operations				
3S0 745-602	Higher Ground Training	\$ 10,937	\$ 10,937	64249
341 745-615	Air National Guard	\$ 2,181,960	\$ 2,312,877	64250
Base Security				
342 745-616	Army National Guard	\$ 8,109,221	\$ 8,686,892	64251
Service Agreement				
TOTAL FED	Federal Special Revenue	\$ 22,228,577	\$ 23,210,466	64252
Fund Group				
State Special Revenue Fund Group				64253
528 745-605	Marksmanship	\$ 66,078	\$ 66,078	64254
Activities				
TOTAL SSR	State Special Revenue	\$ 66,078	\$ 66,078	64255

GRF 100-734	Major Maintenance - State Bldgs	\$	46,313	\$	45,094	64276
GRF 102-321	Construction Compliance	\$	1,356,797	\$	1,354,615	64277
GRF 130-321	State Agency Support Services	\$	2,633,980	\$	2,668,370	64278
TOTAL GRF	General Revenue Fund	\$	159,709,387	\$	169,626,113	64279
	General Services Fund Group					64280
112 100-616	Director's Office	\$	5,503,547	\$	5,503,547	64281
115 100-632	Central Service Agency	\$	431,176	\$	448,574	64282
117 100-644	General Services Division - Operating	\$	7,622,861	\$	8,653,304	64283
122 100-637	Fleet Management	\$	1,669,589	\$	1,652,849	64284
125 100-622	Human Resources Division - Operating	\$	21,489,800	\$	21,764,800	64285
127 100-627	Vehicle Liability Insurance	\$	3,363,894	\$	3,344,644	64286
128 100-620	Collective Bargaining	\$	3,410,952	\$	3,410,952	64287
130 100-606	Risk Management Reserve	\$	217,904	\$	223,904	64288
131 100-639	State Architect's Office	\$	6,510,117	\$	6,473,867	64289
132 100-631	DAS Building Management	\$	10,921,019	\$	10,721,430	64290
188 100-649	Equal Opportunity Division - Operating	\$	1,082,353	\$	1,103,697	64291
201 100-653	General Services Resale Merchandise	\$	1,533,000	\$	1,553,000	64292
210 100-612	State Printing	\$	6,160,200	\$	6,674,421	64293
4P3 100-603	Departmental MIS Services	\$	6,077,535	\$	6,233,638	64294
427 100-602	Investment Recovery	\$	4,023,473	\$	3,953,216	64295
5C2 100-605	MARCS Administration	\$	6,632,527	\$	9,268,178	64296

5C3	100-608	Skilled Trades	\$	1,840,327	\$	1,905,655	64297
5D7	100-621	Workforce Development	\$	12,000,000	\$	12,000,000	64298
5L7	100-610	Professional Development	\$	2,700,000	\$	2,700,000	64299
5V6	100-619	Employee Educational Development	\$	809,071	\$	811,129	64300
TOTAL GSF General Services Fund							64301
Group			\$	103,999,345	\$	108,400,805	64302
Intragovernmental Service Fund Group							64303
133	100-607	Information Technology Fund	\$	100,987,526	\$	102,272,838	64304
4N6	100-617	Major IT Purchases	\$	15,452,006	\$	10,617,166	64305
TOTAL ISF Intragovernmental Service Fund Group							64306
			\$	116,439,532	\$	112,890,004	64307
Agency Fund Group							64308
113	100-628	Unemployment Compensation Pass Through	\$	4,200,000	\$	4,200,000	64309
124	100-629	Payroll Deductions	\$	1,971,000,000	\$	2,050,000,000	64310
TOTAL AGY Agency Fund Group			\$	1,975,200,000	\$	2,054,200,000	64311
Holding Account Redistribution Fund Group							64312
R08	100-646	General Services Refunds	\$	20,000	\$	20,000	64313
TOTAL 090 Holding Account Redistribution Fund Group							64314
			\$	20,000	\$	20,000	64315
TOTAL ALL BUDGET FUND GROUPS			\$	2,355,368,264	\$	2,445,136,922	64316

Section 8.01. AGENCY AUDIT EXPENSES 64318

Of the foregoing appropriation item 100-405, Agency Audit 64319
 Expenses, up to \$20,000 in fiscal year 2004 and \$20,000 in fiscal 64320
 year 2005 shall be used for the Department of Administrative 64321
 Services' GRF appropriation item-related auditing expenses. The 64322

remainder of the appropriation shall be used for auditing expenses 64323
designated in division (A)(1) of section 117.13 of the Revised 64324
Code for those state agencies audited on a biennial basis. 64325

Section 8.02. OHIO BUILDING AUTHORITY 64326

The foregoing appropriation item 100-447, OBA - Building Rent 64327
Payments, shall be used to meet all payments at the times they are 64328
required to be made during the period from July 1, 2003, to June 64329
30, 2005, by the Department of Administrative Services to the Ohio 64330
Building Authority pursuant to leases and agreements under Chapter 64331
152. of the Revised Code, but limited to the aggregate amount of 64332
\$222,702,700. These appropriations are the source of funds pledged 64333
for bond service charges on obligations issued pursuant to Chapter 64334
152. of the Revised Code. 64335

The foregoing appropriation item 100-448, OBA - Building 64336
Operating Payments, shall be used to meet all payments at the 64337
times that they are required to be made during the period from 64338
July 1, 2003, to June 30, 2005, by the Department of 64339
Administrative Services to the Ohio Building Authority pursuant to 64340
leases and agreements under Chapter 152. of the Revised Code, but 64341
limited to the aggregate amount of \$51,448,800. 64342

The payments to the Ohio Building Authority are for the 64343
purpose of paying the expenses of agencies that occupy space in 64344
the various state facilities. The Department of Administrative 64345
Services may enter into leases and agreements with the Ohio 64346
Building Authority providing for the payment of these expenses. 64347
The Ohio Building Authority shall report to the Department of 64348
Administrative Services and the Office of Budget and Management 64349
not later than five months after the start of a fiscal year the 64350
actual expenses incurred by the Ohio Building Authority in 64351
operating the facilities and any balances remaining from payments 64352
and rentals received in the prior fiscal year. The Department of 64353

Administrative Services shall reduce subsequent payments by the amount of the balance reported to it by the Ohio Building Authority.

Section 8.03. DAS - BUILDING OPERATING PAYMENTS

The foregoing appropriation item 100-449, DAS - Building Operating Payments, shall be used to pay the rent expenses of veterans organizations pursuant to section 123.024 of the Revised Code in fiscal years 2004 and 2005.

The foregoing appropriation item, 100-449, DAS - Building Operating Payments, may be used to provide funding for the cost of property appraisals or building studies that the Department of Administrative Services may be required to obtain for property that is being sold by the state or property under consideration to be renovated or purchased by the state.

Notwithstanding section 125.28 of the Revised Code, the remaining portion of the appropriation may be used to pay the operating expenses of state facilities maintained by the Department of Administrative Services that are not billed to building tenants. These expenses may include, but are not limited to, the costs for vacant space and space undergoing renovation, and the rent expenses of tenants that are relocated due to building renovations. These payments shall be processed by the Department of Administrative Services through intrastate transfer vouchers and placed in the Building Management Fund (Fund 132).

Section 8.04. CENTRAL SERVICE AGENCY FUND

The Director of Budget and Management may transfer up to \$423,200 in fiscal year 2004 and up to \$427,700 in fiscal year 2005 from the Occupational Licensing and Regulatory Fund (Fund 4K9) to the Central Service Agency Fund (Fund 115). The Director of Budget and Management may transfer up to \$40,700 in fiscal year

2004 and up to \$41,200 in fiscal year 2005 from the State Medical Board Operating Fund (Fund 5C6) to the Central Service Agency Fund (Fund 115). The appropriation item 100-632, Central Service Agency, shall be used to purchase the necessary equipment, products, and services to maintain a local area network for the professional licensing boards, and to support their licensing applications in fiscal years 2004 and 2005. The amount of the cash transfer is appropriated to appropriation item 100-632, Central Service Agency.

Section 8.05. COLLECTIVE BARGAINING ARBITRATION EXPENSES 64393

With approval of the Director of Budget and Management, the Department of Administrative Services may seek reimbursement from state agencies for the actual costs and expenses the department incurs in the collective bargaining arbitration process. The reimbursements shall be processed through intrastate transfer vouchers and placed in the Collective Bargaining Fund (Fund 128).

Section 8.06. EQUAL OPPORTUNITY PROGRAM 64400

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the activities supported by the State EEO Fund (Fund 188). These charges shall be deposited to the credit of the State EEO Fund (Fund 188) upon payment made by state agencies, state-supported or state-assisted institutions of higher education, and tax-supported agencies, municipal corporations, and other political subdivisions of the state, for services rendered.

Section 8.07. MERCHANDISE FOR RESALE 64410

The foregoing appropriation item 100-653, General Services Resale Merchandise, shall be used to account for merchandise for

resale, which is administered by the General Services Division. 64413
Deposits to the fund may comprise the cost of merchandise for 64414
resale and shipping fees. 64415

Section 8.08. DEPARTMENTAL MIS 64416

The foregoing appropriation item 100-603, Departmental MIS 64417
Services, may be used to pay operating expenses of management 64418
information systems activities in the Department of Administrative 64419
Services. The Department of Administrative Services shall 64420
establish charges for recovering the costs of management 64421
information systems activities. These charges shall be deposited 64422
to the credit of the Departmental MIS Services Fund (Fund 4P3). 64423

Notwithstanding any other language to the contrary, the 64424
Director of Budget and Management may transfer up to \$1,000,000 of 64425
fiscal year 2004 appropriations and up to \$1,000,000 of fiscal 64426
year 2005 appropriations from appropriation item 100-603, 64427
Departmental MIS Services, to any Department of Administrative 64428
Services non-General Revenue Fund appropriation item. The 64429
appropriations transferred shall be used to make payments for 64430
management information systems services. 64431

Section 8.09. INVESTMENT RECOVERY FUND 64432

Notwithstanding division (B) of section 125.14 of the Revised 64433
Code, cash balances in the Investment Recovery Fund (Fund 427) may 64434
be used to support the operating expenses of the Federal Surplus 64435
Operating Program created in sections 125.84 to 125.90 of the 64436
Revised Code. 64437

Notwithstanding division (B) of section 125.14 of the Revised 64438
Code, cash balances in the Investment Recovery Fund may be used to 64439
support the operating expenses of the State Property Inventory and 64440
Fixed Assets Management System Program. 64441

Of the foregoing appropriation item 100-602, Investment 64442

Recovery, up to \$1,958,155 in fiscal year 2004 and up to 64443
\$2,049,162 in fiscal year 2005 shall be used to pay the operating 64444
expenses of the State Surplus Property Program, the Surplus 64445
Federal Property Program, and the State Property Inventory and 64446
Fixed Assets Management System Program pursuant to Chapter 125. of 64447
the Revised Code and this section. If additional appropriations 64448
are necessary for the operations of these programs, the Director 64449
of Administrative Services shall seek increased appropriations 64450
from the Controlling Board under section 131.35 of the Revised 64451
Code. 64452

Of the foregoing appropriation item 100-602, Investment 64453
Recovery, \$2,221,029 in fiscal year 2004 and \$2,130,022 in fiscal 64454
year 2005 shall be used to transfer proceeds from the sale of 64455
surplus property from the Investment Recovery Fund to non-General 64456
Revenue Funds pursuant to division (A)(2) of section 125.14 of the 64457
Revised Code. If it is determined by the Director of 64458
Administrative Services that additional appropriations are 64459
necessary for the transfer of such sale proceeds, the Director of 64460
Administrative Services may request the Director of Budget and 64461
Management to increase the amounts. Such amounts are hereby 64462
appropriated. 64463

Notwithstanding division (B) of section 125.14 of the Revised 64464
Code, the Director of Budget and Management, at the request of the 64465
Director of Administrative Services, shall transfer up to 64466
\$2,811,197 of the amounts held for transfer to the General Revenue 64467
Fund from the Investment Recovery Fund to the General Services 64468
Fund (Fund 117) during the biennium beginning July 1, 2003, and 64469
ending June 30, 2005. The cash transferred to the General Services 64470
Fund shall be used to pay the operating expenses of the 64471
Competitive Sealed Proposal Program, to provide operating cash for 64472
the General Services Fund, and to provide operating cash for the 64473
newly created rate pools for Real Estate Leasing and Interior 64474

Design Services. 64475

Section 8.10. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM 64476

Notwithstanding division (B)(3) of section 4505.09 of the 64477
Revised Code, the Director of Budget and Management, at the 64478
request of the Director of Administrative Services, may transfer 64479
up to \$4,887,390 in fiscal year 2004 and \$1,000,000 in fiscal year 64480
2005 from the Automated Title Processing System (Fund 849) to the 64481
Multi-Agency Radio Communications Systems Fund (Fund 5C2). The 64482
cash transferred to the Multi-Agency Radio Communications Systems 64483
Fund shall be used for the development of the MARCS system. 64484

Effective with the implementation of the Multi-Agency Radio 64485
Communications System, the Director of Administrative Services 64486
shall collect user fees from participants in the system. The 64487
Director of Administrative Services, with the advice of the 64488
Multi-Agency Radio Communications System Steering Committee and 64489
the Director of Budget and Management, shall determine the amount 64490
of the fees and the manner by which the fees shall be collected. 64491
Such user charges shall comply with the applicable cost principles 64492
issued by the federal Office of Management and Budget. All moneys 64493
from user charges and fees shall be deposited in the state 64494
treasury to the credit of the Multi-Agency Radio Communications 64495
System Administration Fund (Fund 5C2). All interest income derived 64496
from the investment of the fund shall accrue to the fund. 64497

Section 8.11. WORKFORCE DEVELOPMENT FUND 64498

There is hereby established in the state treasury the 64499
Workforce Development Fund (Fund 5D7). The foregoing appropriation 64500
item 100-621, Workforce Development, shall be used to make 64501
payments from the fund. The fund shall be under the supervision of 64502
the Department of Administrative Services, which may adopt rules 64503
with regard to administration of the fund. The fund shall be used 64504

to pay the costs of the Workforce Development Program, if any, as 64505
previously established by Article 37 of the contract between the 64506
State of Ohio and OCSEA/AFSCME, Local 11, effective March 1, 2000, 64507
and as modified by any successor labor contract between the State 64508
of Ohio and OCSEA/AFSCME. The program shall be administered in 64509
accordance with the contract. Revenues shall accrue to the fund as 64510
specified in the contract. The fund may be used to pay direct and 64511
indirect costs of the program that are attributable to staff, 64512
consultants, and service providers. All income derived from the 64513
investment of the fund shall accrue to the fund. 64514

If it is determined by the Director of Administrative 64515
Services that additional appropriation amounts are necessary, the 64516
Director of Administrative Services may request that the Director 64517
of Budget and Management increase such amounts. Such amounts are 64518
hereby appropriated. 64519

Section 8.12. PROFESSIONAL DEVELOPMENT FUND 64520

The foregoing appropriation item 100-610, Professional 64521
Development, shall be used to make payments from the Professional 64522
Development Fund (Fund 5L7) pursuant to section 124.182 of the 64523
Revised Code. 64524

Section 8.13. EMPLOYEE EDUCATIONAL DEVELOPMENT 64525

There is hereby established in the state treasury the 64526
Employee Educational Development Fund (Fund 5V6). The foregoing 64527
appropriation item 100-619, Employee Educational Development, 64528
shall be used to make payments from the fund. The fund shall be 64529
used to pay the costs of the administration of educational 64530
programs per existing collective bargaining agreements with 64531
District 1199, the Health Care and Social Service Union; State 64532
Council of Professional Educators; Ohio Education Association; 64533
National Education Association; the Fraternal Order of Police Ohio 64534

Labor Council, Unit 2; and the Ohio State Troopers Association, 64535
Units 1 and 15. The fund shall be under the supervision of the 64536
Department of Administrative Services, which may adopt rules with 64537
regard to administration of the fund. The fund shall be 64538
administered in accordance with the applicable sections of the 64539
collective bargaining agreements between the State and the 64540
aforementioned unions. The Department of Administrative Services, 64541
with the approval of the Director of Budget and Management, shall 64542
establish charges for recovering the costs of administering the 64543
educational programs. Receipts for these charges shall be 64544
deposited into the Employee Educational Development Fund. All 64545
income derived from the investment of the funds shall accrue to 64546
the fund. 64547

If it is determined by the Director of Administrative 64548
Services that additional appropriation amounts are necessary, the 64549
Director of Administrative Services may request that the Director 64550
of Budget and Management increase such amounts. Such amounts are 64551
hereby appropriated with the approval of the Director of Budget 64552
and Management. 64553

Upon the request of the Director of Administrative Services, 64554
the Director of Budget and Management shall transfer any cash 64555
balances attributable to educational programs per existing 64556
collective bargaining agreements with District 1199, the Health 64557
Care and Social Service Union; State Council of Professional 64558
Educators; Ohio Education Association; National Education 64559
Association; the Fraternal Order of Police Ohio Labor Council, 64560
Unit 2; and the Ohio State Troopers Association, Units 1 and 15 64561
from the Human Resources Services Fund (Fund 125) to the Employee 64562
Educational Development Fund (Fund 5V6). 64563

Section 8.14. MAJOR IT PURCHASES 64564

The Director of Administrative Services shall compute the 64565

amount of revenue attributable to the amortization of all 64566
equipment purchases and capitalized systems from appropriation 64567
item 100-607, Information Technology Fund; appropriation item 64568
100-617, Major IT Purchases; and appropriation item CAP-837, Major 64569
IT Purchases, which is recovered by the Department of 64570
Administrative Services as part of the rates charged by the 64571
Information Technology Fund (Fund 133) created in section 125.15 64572
of the Revised Code. The Director of Budget and Management may 64573
transfer cash in an amount not to exceed the amount of 64574
amortization computed from the Information Technology Fund (Fund 64575
133) to the Major IT Purchases Fund (Fund 4N6). 64576

Section 8.15. INFORMATION TECHNOLOGY ASSESSMENT 64577

The Director of Administrative Services, with the approval of 64578
the Director of Budget and Management, may establish an 64579
information technology assessment for the purpose of recovering 64580
the cost of selected infrastructure and statewide programs. Such 64581
assessment shall comply with applicable cost principles issued by 64582
the federal Office of Management and Budget. The information 64583
technology assessment shall be charged to all organized bodies, 64584
offices, or agencies established by the laws of the state for the 64585
exercise of any function of state government except for the 64586
General Assembly, any legislative agency, the Supreme Court, the 64587
other courts of record in Ohio, or any judicial agency, the 64588
Adjutant General, the Bureau of Workers' Compensation, and 64589
institutions administered by a board of trustees. Any state-entity 64590
exempted by this section may utilize the infrastructure or 64591
statewide program by participating in the information technology 64592
assessment. All charges for the information technology assessment 64593
shall be deposited to the credit of the Information Technology 64594
Fund (Fund 133) created in section 125.15 of the Revised Code. 64595

Section 8.16. UNEMPLOYMENT COMPENSATION FUND 64596

The foregoing appropriation item 100-628, Unemployment Compensation Pass Through, shall be used to make payments from the Unemployment Compensation Fund (Fund 113), pursuant to section 4141.241 of the Revised Code. If it is determined that additional amounts are necessary, such amounts are hereby appropriated.

Section 8.17. PAYROLL WITHHOLDING FUND

The foregoing appropriation item 100-629, Payroll Deductions, shall be used to make payments from the Payroll Withholding Fund (Fund 124). If it is determined by the Director of Budget and Management that additional appropriation amounts are necessary, such amounts are hereby appropriated.

Section 8.18. GENERAL SERVICES REFUNDS

The foregoing appropriation item 100-646, General Services Refunds, shall be used to hold bid guarantee and building plans and specifications deposits until they are refunded. The Director of Administrative Services may request that the Director of Budget and Management transfer cash received for the costs of providing the building plans and specifications to contractors from the General Services Refunds Fund to the State Architect's Office Fund (Fund 131). Prior to the transfer of cash, the Director of Administrative Services shall certify that such amounts are in excess of amounts required for refunding deposits and are directly related to costs of producing building plans and specifications. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

Section 8.19. MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT SERVICE PAYMENTS

The Director of Administrative Services, in consultation with the Multi-Agency Radio Communication System (MARCS) Steering

Committee and the Director of Budget and Management, shall 64626
determine the share of debt service payments attributable to 64627
spending for MARCS components that are not specific to any one 64628
agency and that shall be charged to agencies supported by the 64629
motor fuel tax. Such share of debt service payments shall be 64630
calculated for MARCS capital disbursements made beginning July 1, 64631
1997. Within thirty days of any payment made from appropriation 64632
item 100-447, OBA - Building Rent Payments, the Director of 64633
Administrative Services shall certify to the Director of Budget 64634
and Management the amount of this share. The Director of Budget 64635
and Management shall transfer such amounts to the General Revenue 64636
Fund from the State Highway Safety Fund (Fund 036) established in 64637
section 4501.06 of the Revised Code. 64638

The Director of Administrative Services shall consider 64639
renting or leasing existing tower sites at reasonable or current 64640
market rates, so long as these existing sites are equipped with 64641
the technical capabilities to support the MARCS project. 64642

Section 8.20. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY 64643

Whenever the Director of Administrative Services declares a 64644
"public exigency," as provided in division (C) of section 123.15 64645
of the Revised Code, the Director shall also notify the members of 64646
the Controlling Board. 64647

Section 8.21. GENERAL SERVICE CHARGES 64648

The Department of Administrative Services, with the approval 64649
of the Director of Budget and Management, shall establish charges 64650
for recovering the costs of administering the programs in the 64651
General Services Fund (Fund 117) and the State Printing Fund (Fund 64652
210). 64653

Section 9. AAM COMMISSION ON AFRICAN AMERICAN MALES 64654

General Revenue Fund				64655
GRF 036-100 Personal Services	\$	212,492	\$ 218,610	64656
GRF 036-200 Maintenance	\$	50,180	\$ 50,180	64657
GRF 036-300 Equipment	\$	4,000	\$ 4,000	64658
GRF 036-501 CAAM Awards and Scholarships	\$	14,625	\$ 14,625	64659
GRF 036-502 Community Projects	\$	25,185	\$ 26,445	64660
TOTAL GRF General Revenue Fund	\$	306,482	\$ 313,860	64661
State Special Revenue Fund Group				64662
4H3 036-601 Commission on African American Males - Gifts/Grants	\$	10,000	\$ 10,000	64663
TOTAL SSR State Special Revenue Fund Group	\$	10,000	\$ 10,000	64664
TOTAL ALL BUDGET FUND GROUPS	\$	316,482	\$ 323,860	64665
COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW				64666
Annually, not later than the thirty-first day of December,				64667
the Commission on African American Males shall internally prepare				64668
and submit to the chairperson and ranking minority member of the				64669
Human Services Subcommittee of the Finance and Appropriations				64670
Committee of the House of Representatives a report that				64671
demonstrates the progress that has been made toward meeting the				64672
Commission's mission statement.				64673
Section 10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW				64674
General Revenue Fund				64675
GRF 029-321 Operating Expenses	\$	363,769	\$ 379,769	64676
TOTAL GRF General Revenue Fund	\$	363,769	\$ 379,769	64677
TOTAL ALL BUDGET FUND GROUPS	\$	363,769	\$ 379,769	64678
OPERATING				64679
The Chief Administrative Officer of the House of				64680

Representatives and the Clerk of the Senate shall determine, by 64681
mutual agreement, which of them shall act as fiscal agent for the 64682
Joint Committee on Agency Rule Review. 64683

Section 11. AGE DEPARTMENT OF AGING 64684

General Revenue Fund 64685

GRF 490-321 Operating Expenses \$ 2,441,068 \$ 2,465,479 64686

GRF 490-403 PASSPORT \$ 74,808,877 \$ 80,946,032 64687

GRF 490-405 Golden Buckeye Card \$ 300,504 \$ 304,164 64688

GRF 490-406 Senior Olympics \$ 16,636 \$ 16,636 64689

GRF 490-407 Long-Term Care \$ 495,692 \$ 502,297 64690

Consumer Guide

GRF 490-409 Ohio Community Service \$ 228,048 \$ 228,999 64691

Council Operations

GRF 490-410 Long-Term Care \$ 729,685 \$ 730,366 64692

Ombudsman

GRF 490-411 Senior Community \$ 10,971,431 \$ 10,979,201 64693

Services

GRF 490-412 Residential State \$ 10,557,978 \$ 11,191,456 64694

Supplement

GRF 490-414 Alzheimers Respite \$ 4,346,689 \$ 4,348,715 64695

GRF 490-416 Transportation for \$ 141,917 \$ 138,369 64696

Elderly

GRF 490-419 Prescription Drug \$ 169,986 \$ 169,986 64697

Discount Program

GRF 490-506 Senior Volunteers \$ 385,099 \$ 375,471 64698

TOTAL GRF General Revenue Fund \$ 105,593,610 \$ 112,397,171 64699

General Services Fund Group 64700

480 490-606 Senior Citizens \$ 372,677 \$ 372,677 64701

Services Special

Events

5T4 490-615 Aging Network Support \$ 252,830 \$ 252,830 64702

TOTAL GSF General Services Fund				64703
Group	\$	625,507	\$ 625,507	64704
Federal Special Revenue Fund Group				64705
3C4 490-607 PASSPORT	\$	140,563,071	\$ 143,208,159	64706
3M3 490-611 Federal Aging	\$	25,541,095	\$ 26,818,149	64707
Nutrition				
3M4 490-612 Federal Supportive	\$	26,305,294	\$ 27,094,453	64708
Services				
3R7 490-617 Ohio Community Service	\$	8,951,150	\$ 8,905,150	64709
Council Programs				
322 490-618 Older Americans	\$	12,904,949	\$ 13,298,626	64710
Support Services				
TOTAL FED Federal Special Revenue				64711
Fund Group	\$	214,265,559	\$ 219,324,537	64712
State Special Revenue Fund Group				64713
4C4 490-609 Regional Long-Term	\$	829,321	\$ 829,321	64714
Care Ombudsman Program				
4J4 490-610 PASSPORT/Residential	\$	33,268,052	\$ 33,263,984	64715
State Supplement				
4U9 490-602 PASSPORT Fund	\$	5,000,000	\$ 5,000,000	64716
5K9 490-613 Nursing Home Consumer	\$	400,000	\$ 400,000	64717
Guide				
5W1 490-616 Resident Services	\$	250,000	\$ 250,000	64718
Coordinator Program				
624 490-604 OCSC Community Support	\$	2,500	\$ 2,500	64719
TOTAL SSR State Special Revenue				64720
Fund Group	\$	39,749,873	\$ 39,745,805	64721
TOTAL ALL BUDGET FUND GROUPS	\$	360,234,549	\$ 372,093,020	64722
Section 11.01. PRE-ADMISSION REVIEW FOR NURSING FACILITY				64724
ADMISSION				64725
Pursuant to sections 5101.751 and 5101.754 of the Revised				64726

Code and an interagency agreement, the Department of Job and 64727
Family Services shall designate the Department of Aging to perform 64728
assessments under sections 5101.75 and 5111.204 of the Revised 64729
Code. Of the foregoing appropriation item 490-403, PASSPORT, the 64730
Department of Aging may use not more than \$2,511,309 in fiscal 64731
year 2004 and \$2,574,092 in fiscal year 2005 to perform the 64732
assessments for persons not eligible for Medicaid in accordance 64733
with the department's interagency agreement with the Department of 64734
Job and Family Services and to assist individuals in planning for 64735
their long-term health care needs. 64736

Section 11.02. PASSPORT 64737

Appropriation item 490-403, PASSPORT, and the amounts set 64738
aside for the PASSPORT Waiver Program in appropriation item 64739
490-610, PASSPORT/Residential State Supplement, may be used to 64740
assess clients regardless of Medicaid eligibility. 64741

The Director of Aging shall adopt rules under section 111.15 64742
of the Revised Code governing the nonwaiver funded PASSPORT 64743
program, including client eligibility. 64744

The Department of Aging shall administer the Medicaid 64745
waiver-funded PASSPORT Home Care Program as delegated by the 64746
Department of Job and Family Services in an interagency agreement. 64747
The foregoing appropriation item 490-403, PASSPORT, and the 64748
amounts set aside for the PASSPORT Waiver Program in appropriation 64749
item 490-610, PASSPORT/Residential State Supplement, shall be used 64750
to provide the required state match for federal Medicaid funds 64751
supporting the Medicaid Waiver-funded PASSPORT Home Care Program. 64752
Appropriation item 490-403, PASSPORT, and the amounts set aside 64753
for the PASSPORT Waiver Program in appropriation item 490-610, 64754
PASSPORT/Residential State Supplement, may also be used to support 64755
the Department of Aging's administrative costs associated with 64756
operating the PASSPORT program. 64757

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 and congregate meals, transportation services, personal care services, respite services, adult day services, home repair, care coordination, and decision support systems. 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 to fund only 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 noncapital 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 funds pass through and shall be administered by the Area Agencies on Aging. The appropriation shall be allocated to the following agencies:

(A) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in fiscal year 2005 to the Jewish Vocational Services/Cincinnati;

(B) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in fiscal year 2005 to the Jewish Community Center of Cleveland;	64788 64789
(C) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in fiscal year 2005 to the Wexner Heritage Village/Columbus;	64790 64791
(D) Up to \$15,469 in fiscal year 2004 and up to \$15,082 in fiscal year 2005 to the Jewish Family Services of Dayton;	64792 64793
(E) Up to \$7,805 in fiscal year 2004 and up to \$7,610 in fiscal year 2005 to the Jewish Community Center of Akron;	64794 64795
(F) Up to \$3,832 in fiscal year 2004 and up to \$3,736 in fiscal year 2005 to the Jewish Community Center/Youngstown;	64796 64797
(G) Up to \$2,270 in fiscal year 2004 and up to \$2,214 in fiscal year 2005 to the Jewish Community Center/Canton;	64798 64799
(H) Up to \$7,805 in fiscal year 2004 and up to \$7,610 in fiscal year 2005 to the Jewish Community Center/Sylvania.	64800 64801
Agencies receiving funding from appropriation item 490-416, Transportation for Elderly, shall coordinate services with other local service agencies.	64802 64803 64804
RESIDENTIAL STATE SUPPLEMENT	64805
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:	64806 64807 64808 64809
(A) \$900 for a residential care facility, as defined in section 3721.01 of the Revised Code;	64810 64811
(B) \$900 for an adult group home, as defined in Chapter 3722. of the Revised Code;	64812 64813
(C) \$800 for an adult foster home, as defined in Chapter 173. of the Revised Code;	64814 64815
(D) \$800 for an adult family home, as defined in Chapter	64816

3722. of the Revised Code;	64817
(E) \$800 for an adult community alternative home, as defined in Chapter 3724. of the Revised Code;	64818 64819
(F) \$800 for an adult residential facility, as defined in Chapter 5119. of the Revised Code;	64820 64821
(G) \$600 for adult community mental health housing services, as defined in division (B)(5) of section 173.35 of the Revised Code.	64822 64823 64824
The Departments of Aging and Job and Family Services shall reflect these amounts in any applicable rules the departments adopt under section 173.35 of the Revised Code.	64825 64826 64827
TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS	64828
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.	64829 64830 64831 64832 64833 64834 64835
LONG-TERM CARE OMBUDSMAN	64836
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.	64837 64838 64839 64840
PRESCRIPTION DRUG DISCOUNT PROGRAM	64841
The foregoing appropriation item 490-419, Prescription Drug Discount Program, shall be used to administer a prescription drug discount program.	64842 64843 64844
REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAMS	64845

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 may be used to fund the Residential State Supplement Program. The remaining available funds shall be used to fund the PASSPORT program.

TRANSFER OF APPROPRIATIONS - FEDERAL AGING NUTRITION, FEDERAL SUPPORTIVE SERVICES, AND OLDER AMERICANS SUPPORT SERVICES

Upon written request of the Director of Aging, the Director of Budget and Management may transfer appropriation authority among appropriation items 490-611, Federal Aging Nutrition, 490-612, Federal Supportive Services, and 490-618, Older Americans Support Services, in amounts not to exceed 30 per cent of the appropriation from which the transfer is made. The Department of Aging shall report such transfers to the Controlling Board at the next regularly scheduled meeting of the board.

OHIO COMMUNITY SERVICE COUNCIL

The foregoing appropriation items 490-409, Ohio Community Service Council Operations, and 490-617, Ohio Community Service Council Programs, shall be used in accordance with section 121.40 of the Revised Code.

Section 12. AGR DEPARTMENT OF AGRICULTURE

General Revenue Fund

GRF 700-321	Operating Expenses	\$	2,737,665	\$	2,771,628	
GRF 700-401	Animal Disease Control	\$	3,535,539	\$	3,526,147	
GRF 700-402	Amusement Ride Safety	\$	278,767	\$	275,943	

GRF 700-403	Dairy Division	\$	1,494,597	\$	1,494,153	64875
GRF 700-404	Ohio Proud	\$	197,727	\$	197,229	64876
GRF 700-406	Consumer Analytical Lab	\$	819,281	\$	872,241	64877
GRF 700-407	Food Safety	\$	864,922	\$	876,740	64878
GRF 700-409	Farmland Preservation	\$	252,278	\$	251,906	64879
GRF 700-410	Plant Industry	\$	1,109,867	\$	1,107,677	64880
GRF 700-411	International Trade and Market Development	\$	521,049	\$	517,524	64881
GRF 700-412	Weights and Measures	\$	914,137	\$	909,120	64882
GRF 700-413	Gypsy Moth Prevention	\$	546,118	\$	576,299	64883
GRF 700-414	Concentrated Animal Feeding Facilities Advisory Committee	\$	16,521	\$	16,086	64884
GRF 700-415	Poultry Inspection	\$	270,645	\$	267,743	64885
GRF 700-418	Livestock Regulation Program	\$	1,306,911	\$	1,306,911	64886
GRF 700-424	Livestock Testing and Inspections	\$	123,347	\$	123,347	64887
GRF 700-499	Meat Inspection Program - State Share	\$	4,451,611	\$	4,496,889	64888
GRF 700-501	County Agricultural Societies	\$	362,037	\$	352,986	64889
TOTAL GRF	General Revenue Fund	\$	19,803,019	\$	19,940,569	64890
	Federal Special Revenue Fund Group					64891
3J4 700-607	Indirect Cost	\$	938,785	\$	949,877	64892
3R2 700-614	Federal Plant Industry	\$	1,400,000	\$	1,425,000	64893
326 700-618	Meat Inspection Service - Federal Share	\$	4,876,904	\$	4,951,291	64894
336 700-617	Ohio Farm Loan Revolving Fund	\$	181,774	\$	181,774	64895
382 700-601	Cooperative Contracts	\$	2,400,000	\$	2,500,000	64896

TOTAL FED Federal Special Revenue				64897
Fund Group	\$	9,797,463	\$ 10,007,942	64898
State Special Revenue Fund Group				64899
4C9 700-605 Feed, Fertilizer, and Lime Inspection	\$	986,765	\$ 1,008,541	64900
4D2 700-609 Auction Education	\$	30,476	\$ 30,476	64901
4E4 700-606 Utility Radiological Safety	\$	73,059	\$ 73,059	64902
4P7 700-610 Food Safety Inspection	\$	575,797	\$ 582,711	64903
4R0 700-636 Ohio Proud Marketing	\$	40,300	\$ 38,300	64904
4R2 700-637 Dairy Inspection Fund	\$	1,157,603	\$ 1,184,183	64905
4T6 700-611 Poultry and Meat Inspection	\$	46,162	\$ 47,294	64906
4T7 700-613 International Trade and Market Development Rotary	\$	41,238	\$ 42,000	64907
4V5 700-615 Animal Industry Lab Fees	\$	711,944	\$ 711,944	64908
494 700-612 Agricultural Commodity Marketing Program	\$	170,077	\$ 170,220	64909
496 700-626 Ohio Grape Industries	\$	1,071,099	\$ 1,071,099	64910
497 700-627 Commodity Handlers Regulatory Program	\$	664,118	\$ 664,118	64911
498 700-628 Commodity Indemnity Fund	\$	250,000	\$ 250,000	64912
5B8 700-629 Auctioneers	\$	291,672	\$ 365,390	64913
5H2 700-608 Metrology Lab	\$	105,879	\$ 108,849	64914
5L8 700-604 Livestock Management Program	\$	250,000	\$ 250,000	64915
578 700-620 Ride Inspection Fees	\$	497,000	\$ 497,000	64916
579 700-630 Scale Certification	\$	168,785	\$ 171,677	64917
652 700-634 Laboratory Services	\$	1,043,444	\$ 1,074,447	64918
669 700-635 Pesticide Program	\$	1,981,232	\$ 1,981,232	64919

TOTAL SSR State Special Revenue				64920		
Fund Group	\$	10,156,650	\$	10,322,540	64921	
Clean Ohio Fund Group				64922		
057 700-632 Clean Ohio	\$	149,000	\$	149,000	64923	
Agricultural Easement						
TOTAL CLR Clean Ohio Fund Group	\$	149,000	\$	149,000	64924	
TOTAL ALL BUDGET FUND GROUPS	\$	39,906,132	\$	40,420,051	64925	
FAMILY FARM LOAN PROGRAM						64926
Notwithstanding Chapter 166. of the Revised Code, up to						64927
\$1,500,000 in each fiscal year shall be transferred from moneys in						64928
the Facilities Establishment Fund (Fund 037) to the Family Farm						64929
Loan Fund (Fund 5H1) in the Department of Development. These						64930
moneys shall be used for loan guarantees. The transfer is subject						64931
to Controlling Board approval.						64932
Financial assistance from the Family Farm Loan Fund (Fund						64933
5H1) shall be repaid to Fund 5H1. This fund is established in						64934
accordance with sections 166.031, 901.80, 901.81, 901.82, and						64935
901.83 of the Revised Code.						64936
When the Family Farm Loan Fund (Fund 5H1) ceases to exist,						64937
all outstanding balances, all loan repayments, and any other						64938
outstanding obligations shall revert to the Facilities						64939
Establishment Fund (Fund 037).						64940
CLEAN OHIO AGRICULTURAL EASEMENT						64941
The foregoing appropriation item 700-632, Clean Ohio						64942
Agricultural Easement, shall be used by the Department of						64943
Agriculture in administering sections 901.21, 901.22, and 5301.67						64944
to 5301.70 of the Revised Code.						64945
Section 13. AIR AIR QUALITY DEVELOPMENT AUTHORITY						64946
Agency Fund Group						64947
4Z9 898-602 Small Business	\$	233,482	\$	233,482	64948	

	Ombudsman				
5A0	898-603	Small Business	\$	197,463	\$ 197,463 64949
		Assistance			
570	898-601	Operating Expenses	\$	243,383	\$ 243,383 64950
TOTAL	AGY	Agency Fund Group	\$	674,328	\$ 674,328 64951
TOTAL	ALL BUDGET	FUND GROUPS	\$	674,328	\$ 674,328 64952

Section 14. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION 64954

SERVICES 64955

General Revenue Fund 64956

GRF	038-321	Operating Expenses	\$	1,200,293	\$ 1,259,423 64957
GRF	038-401	Treatment Services	\$	31,363,537	\$ 34,499,890 64958
GRF	038-404	Prevention Services	\$	1,107,784	\$ 1,163,174 64959
TOTAL	GRF	General Revenue Fund	\$	33,671,614	\$ 36,922,487 64960

General Services Fund 64961

5T9	038-616	Problem Gambling	\$	60,000	\$ 60,000 64962
		Services			
TOTAL	GSF	General Services Fund	\$	60,000	\$ 60,000 64963

Group

Federal Special Revenue Fund Group 64964

3G3	038-603	Drug Free Schools	\$	3,500,000	\$ 3,500,000 64965
3G4	038-614	Substance Abuse Block	\$	67,335,499	\$ 68,079,223 64966

Grant

3H8	038-609	Demonstration Grants	\$	7,093,075	\$ 7,093,075 64967
3J8	038-610	Medicaid	\$	30,000,000	\$ 30,000,000 64968
3N8	038-611	Administrative	\$	500,000	\$ 500,000 64969

Reimbursement

TOTAL	FED	Federal Special Revenue			64970
Fund Group			\$	108,428,574	\$ 109,172,298 64971

State Special Revenue Fund Group 64972

475	038-621	Statewide Treatment	\$	20,191,182	\$ 20,191,182 64973
-----	---------	---------------------	----	------------	---------------------

and Prevention

5P1 038-615 Credentialing	\$	225,000	\$	0	64974
689 038-604 Education and Conferences	\$	280,000	\$	280,000	64975
TOTAL SSR State Special Revenue					64976
Fund Group	\$	20,696,182	\$	20,471,182	64977
TOTAL ALL BUDGET FUND GROUPS	\$	162,856,370	\$	166,625,967	64978

TREATMENT SERVICES 64979

Of the foregoing appropriation item 038-401, Treatment 64980
Services, not more than \$8,190,000 shall be used by the Department 64981
of Alcohol and Drug Addiction Services for program grants for 64982
priority populations in each year of the biennium. 64983

AM. SUB. H.B. 484 OF THE 122nd GENERAL ASSEMBLY 64984

Of the foregoing appropriation item 038-401, Treatment 64985
Services, \$4 million in each fiscal year shall be allocated for 64986
services to families, adults, and adolescents pursuant to the 64987
requirements of Am. Sub. H.B. 484 of the 122nd General Assembly. 64988

SERVICES FOR TANF-ELIGIBLE INDIVIDUALS 64989

Of the foregoing appropriation item 038-621, Statewide 64990
Treatment and Prevention, \$5 million each year shall be used to 64991
fund TANF-eligible expenditures for substance abuse prevention and 64992
treatment services to children, or their families, whose income is 64993
at or below 200 per cent of the official income poverty guideline. 64994
The Director of Alcohol and Drug Addiction Services and the 64995
Director of Job and Family Services shall develop operating and 64996
reporting guidelines for these programs. 64997

PARENT AWARENESS TASK FORCE 64998

The Parent Awareness Task Force shall study ways to engage 64999
more parents in activities, coalitions, and educational programs 65000
in Ohio relating to alcohol and other drug abuse prevention. Of 65001
the foregoing appropriation item 038-404, Prevention Services, 65002

\$30,000 in each fiscal year may be used to support the functions 65003
of the Parent Awareness Task Force. 65004

Section 15. AMB AMBULANCE LICENSING BOARD 65005

General Services Fund Group 65006
4N1 915-601 Operating Expenses \$ 272,340 \$ 284,054 65007
TOTAL GSF General Services 65008
Fund Group \$ 272,340 \$ 284,054 65009
TOTAL ALL BUDGET FUND GROUPS \$ 272,340 \$ 284,054 65010

Section 16. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS 65012

General Services Fund Group 65013
4K9 891-609 Operating Expenses \$ 480,574 \$ 479,574 65014
TOTAL GSF General Services Fund 65015
Group \$ 480,574 \$ 479,574 65016
TOTAL ALL BUDGET FUND GROUPS \$ 480,574 \$ 479,574 65017

Section 17. ART OHIO ARTS COUNCIL 65019

General Revenue Fund 65020
GRF 370-100 Personal Services \$ 1,896,848 \$ 1,892,879 65021
GRF 370-200 Maintenance \$ 547,404 \$ 532,998 65022
GRF 370-300 Equipment \$ 27,788 \$ 27,056 65023
GRF 370-502 Program Subsidies \$ 9,896,320 \$ 9,648,912 65024
TOTAL GRF General Revenue Fund \$ 12,368,360 \$ 12,101,845 65025
General Services Fund Group 65026
4B7 370-603 Per Cent for Art \$ 86,366 \$ 86,366 65027
Acquisitions
460 370-602 Gifts and Donations \$ 429,325 \$ 429,325 65028
TOTAL GSF General Services Fund \$ 515,691 \$ 515,691 65029
Group
Federal Special Revenue Fund Group 65030
314 370-601 Federal Programs \$ 1,657,300 \$ 1,657,300 65031

TOTAL FED Federal Special Revenue	\$	1,657,300	\$	1,657,300	65032
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	14,541,351	\$	14,274,836	65033
PROGRAM SUBSIDIES					65034
A museum is not eligible to receive funds from appropriation					65035
item 370-502, Program Subsidies, if \$8,000,000 or more in capital					65036
appropriations were appropriated by the state for the museum					65037
between January 1, 1986, and December 31, 2002.					65038
PER CENT FOR ART ACQUISITIONS					65039
The unencumbered balance remaining from prior projects of					65040
appropriation item 370-603, Per Cent for Art Acquisitions, shall					65041
be used by the Ohio Arts Council to pay for start-up costs in					65042
connection with the selection of artists of new Per Cent for Art					65043
projects.					65044
Section 18. AFC OHIO ARTS AND SPORTS FACILITIES					65045
COMMISSION					65046
General Revenue Fund					65047
GRF 371-321 Operating Expenses	\$	67,451	\$	67,451	65048
GRF 371-401 Lease Rental Payments	\$	36,283,800	\$	37,617,700	65049
TOTAL GRF General Revenue Fund	\$	36,351,251	\$	37,685,151	65050
State Special Revenue Fund Group					65051
4T8 371-601 Riffe Theatre	\$	23,194	\$	23,194	65052
Equipment Maintenance					
4T8 371-603 Project Administration	\$	1,035,377	\$	1,074,339	65053
TOTAL SSR State Special Revenue	\$	1,058,571	\$	1,097,533	65054
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	37,409,822	\$	38,782,684	65055
OHIO BUILDING AUTHORITY LEASE PAYMENTS					65056
The foregoing appropriation item 371-401, Lease Rental					65057

Payments, shall be used by the Arts and Sports Facilities 65058
Commission for payments to the Ohio Building Authority for the 65059
period from July 1, 2003, to June 30, 2005, pursuant to the 65060
primary leases and agreements for those buildings made under 65061
Chapter 152. of the Revised Code, but limited to the aggregate 65062
amount of \$73,901,500. This appropriation is the source of funds 65063
pledged for bond service charges on related obligations issued 65064
pursuant to Chapter 152. of the Revised Code. 65065

OPERATING EXPENSES 65066

The foregoing appropriation item 371-603, Project 65067
Administration, shall be used by the Ohio Arts and Sports 65068
Facilities Commission to carry out its responsibilities pursuant 65069
to this section and Chapter 3383. of the Revised Code. 65070

Within ten days after the effective date of this section, or 65071
as soon as possible thereafter, the Director of Budget and 65072
Management shall determine the amount of cash from interest 65073
earnings to be transferred from the Arts Facilities Building Fund 65074
(Fund 030) and the Sports Facilities Building Fund (Fund 024) to 65075
the Arts and Sports Facilities Commission Administration Fund 65076
(Fund 4T8). The amount transferred may not exceed the 65077
appropriation in appropriation item 371-603, Project 65078
Administration. 65079

By July 10, 2004, or as soon as possible thereafter, the 65080
Director of Budget and Management shall determine the amount of 65081
cash from interest earnings to be transferred from the Arts 65082
Facilities Building Fund (Fund 030) and the Sports Facilities 65083
Building Fund (Fund 024) to the Arts and Sports Commission 65084
Administration Fund (Fund 4T8). The amount transferred may not 65085
exceed the appropriation in appropriation item 371-603, Project 65086
Administration. 65087

Section 19. ATH ATHLETIC COMMISSION 65088

General Services Fund Group				65089
4K9 175-609 Athletic Commission -	\$	188,250	\$ 200,205	65090
Operating				
TOTAL GSF General Services Fund	\$	188,250	\$ 200,205	65091
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	188,250	\$ 200,205	65092
TRANSFER OF CASH BALANCE FROM FUND 5R1				65093
On July 1, 2003, or as soon thereafter as possible, the				65094
Director of Budget and Management shall transfer the cash balance				65095
in the Athlete Agents Registration Fund (Fund 5R1) that was				65096
created in former section 4771.22 of the Revised Code to the				65097
Occupational Licensing and Regulatory Fund (Fund 4K9). The				65098
director shall cancel any existing encumbrances against				65099
appropriation item 175-602, Athlete Agents Registration (Fund				65100
5R1), and reestablish them against appropriation item 175-609,				65101
Athletic Commission - Operating (Fund 4K9). The amounts of the				65102
reestablished encumbrances are hereby appropriated.				65103
Section 20. AGO ATTORNEY GENERAL				65104
General Revenue Fund				65105
GRF 055-321 Operating Expenses	\$	57,001,723	\$ 60,039,221	65106
GRF 055-405 Law-Related Education	\$	193,402	\$ 194,183	65107
GRF 055-406 Community Police Match	\$	2,344,959	\$ 2,344,959	65108
and Law Enforcement				
Assistance				
GRF 055-411 County Sheriffs	\$	731,879	\$ 736,929	65109
GRF 055-415 County Prosecutors	\$	717,182	\$ 723,490	65110
TOTAL GRF General Revenue Fund	\$	60,989,145	\$ 64,038,782	65111
General Services Fund Group				65112
106 055-612 General Reimbursement	\$	18,870,196	\$ 18,870,196	65113
107 055-624 Employment Services	\$	984,396	\$ 984,396	65114

195	055-660	Workers' Compensation Section	\$	7,769,628	\$	7,769,628	65115
4Y7	055-608	Title Defect Rescission	\$	570,623	\$	570,623	65116
4Z2	055-609	BCI Asset Forfeiture and Cost Reimbursement	\$	332,109	\$	332,109	65117
418	055-615	Charitable Foundations	\$	1,899,066	\$	1,899,066	65118
420	055-603	Attorney General Antitrust	\$	446,449	\$	446,449	65119
421	055-617	Police Officers' Training Academy Fee	\$	1,193,213	\$	1,193,213	65120
5A9	055-618	Telemarketing Fraud Enforcement	\$	52,378	\$	52,378	65121
590	055-633	Peace Officer Private Security Fund	\$	98,370	\$	98,370	65122
629	055-636	Corrupt Activity Investigation and Prosecution	\$	108,230	\$	108,230	65123
631	055-637	Consumer Protection Enforcement	\$	1,373,832	\$	1,373,832	65124
TOTAL GSF General Services Fund							65125
Group			\$	33,698,490	\$	33,698,490	65126
Federal Special Revenue Fund Group							65127
3E5	055-638	Anti-Drug Abuse	\$	1,923,400	\$	1,981,102	65128
3R6	055-613	Attorney General Federal Funds	\$	3,730,191	\$	3,842,097	65129
306	055-620	Medicaid Fraud Control	\$	2,882,970	\$	2,969,459	65130
381	055-611	Civil Rights Legal Service	\$	390,815	\$	390,815	65131
383	055-634	Crime Victims Assistance	\$	17,561,250	\$	18,439,313	65132
TOTAL FED Federal Special Revenue							65133
Fund Group			\$	26,488,626	\$	27,622,786	65134

State Special Revenue Fund Group				65135
4L6 055-606 DARE	\$	3,927,962	\$ 3,927,962	65136
402 055-616 Victims of Crime	\$	27,933,893	\$ 27,933,893	65137
417 055-621 Domestic Violence Shelter	\$	14,492	\$ 14,492	65138
419 055-623 Claims Section	\$	13,649,954	\$ 13,649,954	65139
659 055-641 Solid and Hazardous Waste Background Investigations	\$	621,159	\$ 621,159	65140
TOTAL SSR State Special Revenue Fund Group	\$	46,147,460	\$ 46,147,460	65141 65142
Holding Account Redistribution Fund Group				65143
R03 055-629 Bingo License Refunds	\$	5,200	\$ 5,200	65144
R04 055-631 General Holding Account	\$	275,000	\$ 275,000	65145
R05 055-632 Antitrust Settlements	\$	10,400	\$ 10,400	65146
R18 055-630 Consumer Frauds	\$	750,000	\$ 750,000	65147
R42 055-601 Organized Crime Commission Account	\$	200,000	\$ 200,000	65148
TOTAL 090 Holding Account Redistribution Fund Group	\$	1,240,600	\$ 1,240,600	65149 65150
TOTAL ALL BUDGET FUND GROUPS	\$	168,564,321	\$ 172,748,118	65151
LAW-RELATED EDUCATION				65152
The foregoing appropriation item 055-405, Law-Related Education, shall be distributed directly to the Ohio Center for Law-Related Education for the purposes of providing continuing citizenship education activities to primary and secondary students and accessing additional public and private money for new programs.				65153 65154 65155 65156 65157 65158
WORKERS' COMPENSATION SECTION				65159
The Workers' Compensation Section Fund (Fund 195) shall				65160

receive payments from the Bureau of Workers' Compensation and the 65161
Ohio Industrial Commission at the beginning of each quarter of 65162
each fiscal year to fund legal services to be provided to the 65163
Bureau of Workers' Compensation and the Ohio Industrial Commission 65164
during the ensuing quarter. Such advance payment shall be subject 65165
to adjustment. 65166

In addition, the Bureau of Workers' Compensation shall 65167
transfer payments at the beginning of each quarter for the support 65168
of the Workers' Compensation Fraud Unit. 65169

All amounts shall be mutually agreed upon by the Attorney 65170
General, the Bureau of Workers' Compensation, and the Ohio 65171
Industrial Commission. 65172

CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION 65173

The foregoing appropriation item 055-636, Corrupt Activity 65174
Investigation and Prosecution, shall be used as provided by 65175
division (D)(2) of section 2923.35 of the Revised Code to dispose 65176
of the proceeds, fines, and penalties credited to the Corrupt 65177
Activity Investigation and Prosecution Fund, which is created in 65178
division (D)(1)(b) of section 2923.35 of the Revised Code. If it 65179
is determined that additional amounts are necessary, the amounts 65180
are hereby appropriated. 65181

COMMUNITY POLICE MATCH AND LAW ENFORCEMENT ASSISTANCE 65182

In fiscal years 2004 and 2005, the Attorney General's Office 65183
may request the Director of Budget and Management to transfer 65184
appropriation authority from appropriation item 055-321, Operating 65185
Expenses, to appropriation item 055-406, Community Police Match 65186
and Law Enforcement Assistance. The Director of Budget and 65187
Management shall then transfer appropriation authority from 65188
appropriation item 055-321, Operating Expenses, to appropriation 65189
item 055-406, Community Police Match and Law Enforcement 65190
Assistance. Moneys transferred to appropriation item 055-406, 65191

Community Police Match and Law Enforcement Assistance, shall be 65192
 used to pay operating expenses and to provide grants to local law 65193
 enforcement agencies and communities for the purpose of supporting 65194
 law enforcement-related activities. 65195

Section 21. AUD AUDITOR OF STATE 65196

General Revenue Fund 65197

GRF 070-321 Operating Expenses \$ 31,680,782 \$ 33,264,821 65198

GRF 070-403 Fiscal Watch/Emergency \$ 839,141 \$ 881,098 65199

Technical Assistance

GRF 070-405 Electronic Data \$ 990,602 \$ 1,040,132 65200

Processing - Auditing
and Administration

GRF 070-406 Uniform Accounting \$ 1,548,773 \$ 1,626,212 65201

Network/Technology
Improvements Fund

TOTAL GRF General Revenue Fund \$ 35,059,298 \$ 36,812,263 65202

General Services Fund Group 65203

109 070-601 Public Audit Expense - \$ 10,592,547 \$ 11,651,800 65204

Intra-State

422 070-601 Public Audit Expense - \$ 37,617,072 \$ 39,497,925 65205

Local Government

584 070-603 Training Program \$ 124,999 \$ 131,250 65206

675 070-605 Uniform Accounting \$ 3,015,760 \$ 3,317,336 65207

Network

TOTAL GSF General Services Fund 65208

Group \$ 51,350,378 \$ 54,598,311 65209

Holding Account Redistribution Fund Group 65210

R06 070-604 Continuous Receipts \$ 50,000 \$ 60,000 65211

TOTAL 090 Holding Account 65212

Redistribution Fund Group \$ 50,000 \$ 60,000 65213

TOTAL ALL BUDGET FUND GROUPS \$ 86,459,676 \$ 91,470,574 65214

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE 65215

The foregoing appropriation item 070-403, Fiscal 65216
Watch/Emergency Technical Assistance, shall be used for all 65217
expenses incurred by the Office of the Auditor of State in its 65218
role relating to fiscal watch or fiscal emergency activities under 65219
Chapters 118. and 3316. of the Revised Code. Expenses include, but 65220
are not be limited to, the following: duties related to the 65221
determination or termination of fiscal watch or fiscal emergency 65222
of municipal corporations, counties, or townships as outlined in 65223
Chapter 118. of the Revised Code and of school districts as 65224
outlined in Chapter 3316. of the Revised Code; development of 65225
preliminary accounting reports; performance of annual forecasts; 65226
provision of performance audits; and supervisory, accounting, or 65227
auditing services for the mentioned public entities and school 65228
districts. The unencumbered balance of appropriation item 070-403, 65229
Fiscal Watch/Emergency Technical Assistance, at the end of fiscal 65230
year 2004 is transferred to fiscal year 2005 for use under the 65231
same appropriation item. 65232

ELECTRONIC DATA PROCESSING 65233

The unencumbered balance of appropriation item 070-405, 65234
Electronic Data Processing - Auditing and Administration, at the 65235
end of fiscal year 2004 is transferred to fiscal year 2005 for use 65236
under the same appropriation item. 65237

UNIFORM ACCOUNTING NETWORK/TECHNOLOGY IMPROVEMENTS FUND 65238

The foregoing appropriation item 070-406, Uniform Accounting 65239
Network/Technology Improvements Fund, shall be used to pay the 65240
costs of developing and implementing the Uniform Accounting 65241
Network and technology improvements for the Office of the Auditor 65242
of State. The unencumbered balance of the appropriation at the end 65243
of fiscal year 2004 is transferred to fiscal year 2005 to pay the 65244
costs of developing and implementing the Uniform Accounting 65245

Network and technology improvements for the Office of the Auditor of State. 65246
65247

Section 22. BRB BOARD OF BARBER EXAMINERS 65248

General Services Fund Group 65249

4K9 877-609 Operating Expenses \$ 535,853 \$ 555,037 65250

TOTAL GSF General Services Fund 65251

Group \$ 535,853 \$ 555,037 65252

TOTAL ALL BUDGET FUND GROUPS \$ 535,853 \$ 555,037 65253

Section 23. OBM OFFICE OF BUDGET AND MANAGEMENT 65255

General Revenue Fund 65256

GRF 042-321 Budget Development and Implementation \$ 3,092,469 \$ 2,405,243 65257

GRF 042-401 Office of Quality Services \$ 510,306 \$ 525,615 65258

GRF 042-409 Commission Closures \$ 95,000 \$ 0 65259

GRF 042-410 National Association Dues \$ 27,089 \$ 27,902 65260

GRF 042-412 Audit of Auditor of State \$ 49,450 \$ 51,000 65261

TOTAL GRF General Revenue Fund \$ 3,774,314 \$ 3,009,760 65262

General Services Fund Group 65263

105 042-603 State Accounting \$ 9,131,651 \$ 9,375,862 65264

4C1 042-601 Quality Services \$ 125,000 \$ 125,000 65265

TOTAL GSF General Services Fund 65266

Group

State Special Revenue Fund Group 65267

5N4 042-602 OAKS Project Implementation \$ 2,062,875 \$ 2,069,125 65268

TOTAL SSR State Special Revenue 65269

Fund Group

TOTAL ALL BUDGET FUND GROUPS	\$ 15,093,840	\$ 14,579,747	65270
OFFICE OF QUALITY SERVICES			65271
A portion of the foregoing appropriation item 042-401, Office of Quality Services, may be used to provide financial sponsorship support for conferences and showcases that promote quality improvement efforts. These expenditures are not subject to Chapter 125. of the Revised Code.			65272 65273 65274 65275 65276
The Office of Quality Services may bill for the cost of training and other quality-related services provided by the Office of Quality Services to other governmental agencies. Such revenue shall be deposited into the Quality Services Academy Fund.			65277 65278 65279 65280
OHIO'S QUALITY SHOWCASE			65281
The Office of Quality Services may cosponsor Ohio's Quality Showcase. The office may grant funds to other sponsoring entities for the purpose of conducting this event, provided that the grants are used exclusively for the direct expenses of the event.			65282 65283 65284 65285
Any state agency, at the discretion and with the approval of the director or other executive authority of the agency, may provide financial or in-kind support for Ohio's Quality Showcase cosponsored by the Office of Quality Services. Any financial contribution made by an agency shall not exceed \$5,000 annually.			65286 65287 65288 65289 65290
AUDIT COSTS			65291
Of the foregoing appropriation item 042-603, State Accounting, not more than \$400,000 in fiscal year 2004 and \$415,000 in fiscal year 2005 shall be used to pay for centralized audit costs associated with either Single Audit Schedules or financial statements prepared in conformance with generally accepted accounting principles for the state.			65292 65293 65294 65295 65296 65297
Section 24. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD			65298

General Revenue Fund				65299
GRF 874-321 Operating Expenses	\$	2,553,662	\$ 2,534,329	65300
TOTAL GRF General Revenue Fund	\$	2,553,662	\$ 2,534,329	65301
General Services Fund Group				65302
4G5 874-603 Capitol Square	\$	15,000	\$ 15,000	65303
Maintenance Expenses				
4S7 874-602 Statehouse Gift	\$	770,484	\$ 770,484	65304
Shop/Events				
TOTAL GSF General Services				65305
Fund Group	\$	785,484	\$ 785,484	65306
Underground Parking Garage				65307
208 874-601 Underground Parking	\$	2,996,801	\$ 2,959,721	65308
Garage Operating				
TOTAL UPG Underground Parking				65309
Garage	\$	2,996,801	\$ 2,959,721	65310
TOTAL ALL BUDGET FUND GROUPS	\$	6,335,947	\$ 6,279,534	65311
Section 25. SCR STATE BOARD OF CAREER COLLEGES AND SCHOOLS				65313
General Services Fund Group				65314
4K9 233-601 Operating Expenses	\$	404,025	\$ 431,525	65315
TOTAL GSF General Services Fund	\$	404,025	\$ 431,525	65316
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	404,025	\$ 431,525	65317
Section 26. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD				65319
General Services Fund Group				65320
4K9 930-609 Operating Expenses	\$	225,000	\$ 450,000	65321
TOTAL GSF General Services Fund	\$	225,000	\$ 450,000	65322
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	225,000	\$ 450,000	65323
Notwithstanding any other law to the contrary, upon				65324

certification by the Director of Administrative Services, the 65325
Director of Budget and Management may transfer cash in an amount 65326
not to exceed the fiscal year 2004 appropriation from Fund 5P1 65327
(Credentialing Fund) to Fund 4K9 (Occupational Licensing). The 65328
amount transferred is hereby appropriated. The cash shall be used 65329
to pay expenses related to establishing the Chemical Dependency 65330
Professionals Board, including, but not limited to, travel 65331
reimbursement of board members. 65332

Upon completion of the transition of the Department of 65333
Alcohol and Drug Addiction's certificates and credentials issuance 65334
program to the Chemical Dependency Professionals Board, the 65335
Director of Alcohol and Drug Addiction Services shall certify to 65336
the Director of Budget and Management the remaining cash in Fund 65337
5P1 (Credentialing Fund). The Director of Budget and Management 65338
shall transfer the certified balance from Fund 5P1 to Fund 4K9 65339
(Occupational Licensing). This transition shall be completed in 65340
accordance with Section 5 of Am. Sub. H.B. 496 of the 124th 65341
General Assembly. 65342

Section 27. CHR STATE BOARD OF CHIROPRACTIC EXAMINERS 65343

General Services Fund Group				65344	
4K9 878-609 Operating Expenses	\$	591,724	\$	591,724	65345
TOTAL GSF General Services Fund				65346	
Group	\$	591,724	\$	591,724	65347
TOTAL ALL BUDGET FUND GROUPS	\$	591,724	\$	591,724	65348

CHIROPRACTIC LICENSE EXAMINATION REQUIREMENTS 65349

If the State Chiropractic Board refused to issue a license to 65350
practice chiropractic to an individual solely because the 65351
individual did not meet the examination requirements of division 65352
(B)(4)(b) or (c) of section 4734.20 of the Revised Code, as 65353
specified on and after the effective date of Am. Sub. H.B. 506 of 65354
the 123rd General Assembly but before the effective date of this 65355

section, the Board shall reconsider the application and issue or 65356
 refuse to issue a license according to the examination 65357
 requirements specified in division (B)(4)(b) or (c) of section 65358
 4734.20 of the Revised Code, as amended by this act. 65359

Section 28. CIV OHIO CIVIL RIGHTS COMMISSION 65360

General Revenue Fund 65361

GRF 876-100 Personal Services \$ 7,188,198 \$ 7,188,198 65362

GRF 876-200 Maintenance \$ 822,131 \$ 822,131 65363

GRF 876-300 Equipment \$ 92,668 \$ 92,668 65364

TOTAL GRF General Revenue Fund \$ 8,102,997 \$ 8,102,997 65365

Federal Special Revenue Fund Group 65366

334 876-601 Federal Programs \$ 3,965,000 \$ 3,790,000 65367

TOTAL FED Federal Special Revenue 65368

Fund Group \$ 3,965,000 \$ 3,790,000 65369

State Special Revenue Fund Group 65370

217 876-604 General Reimbursement \$ 20,951 \$ 20,951 65371

TOTAL SSR State Special 65372

Revenue Fund Group \$ 20,951 \$ 20,951 65373

TOTAL ALL BUDGET FUND GROUPS \$ 12,088,948 \$ 11,913,948 65374

Section 29. COM DEPARTMENT OF COMMERCE 65376

General Revenue Fund 65377

GRF 800-402 Grants-Volunteer Fire \$ 615,556 \$ 600,167 65378

Departments

GRF 800-410 Labor and Worker \$ 3,300,040 \$ 3,300,040 65379

Safety

Total GRF General Revenue Fund \$ 3,915,596 \$ 3,900,207 65380

General Services Fund Group 65381

163 800-620 Division of \$ 3,385,803 \$ 3,490,056 65382

Administration

163 800-637 Information Technology \$ 4,982,851 \$ 5,001,315 65383

5F1	800-635	Small Government Fire	\$	250,000	\$	250,000	65384
		Departments					
TOTAL	GSF	General Services Fund					65385
Group			\$	8,618,654	\$	8,741,371	65386
Federal	Special Revenue	Fund Group					65387
348	800-622	Underground Storage	\$	195,008	\$	195,008	65388
		Tanks					
348	800-624	Leaking Underground	\$	1,850,000	\$	1,850,000	65389
		Storage Tanks					
349	800-626	OSHA Enforcement	\$	1,527,750	\$	1,604,140	65390
TOTAL	FED	Federal Special Revenue					65391
Fund	Group		\$	3,572,758	\$	3,649,148	65392
State	Special Revenue	Fund Group					65393
4B2	800-631	Real Estate Appraisal	\$	60,000	\$	60,000	65394
		Recovery					
4H9	800-608	Cemeteries	\$	273,465	\$	273,465	65395
4L5	800-609	Fireworks Training and	\$	10,976	\$	10,976	65396
		Education					
4X2	800-619	Financial Institutions	\$	1,760,798	\$	1,940,843	65397
5B9	800-632	PI & Security Guard	\$	1,188,716	\$	1,188,716	65398
		Provider					
5K7	800-621	Penalty Enforcement	\$	50,000	\$	50,000	65399
5V5	800-638	Prevailing Wage	\$	400,000	\$	425,000	65400
543	800-602	Unclaimed	\$	7,051,051	\$	7,051,051	65401
		Funds-Operating					
543	800-625	Unclaimed Funds-Claims	\$	25,512,867	\$	25,512,867	65402
544	800-612	Banks	\$	6,657,997	\$	6,657,997	65403
545	800-613	Savings Institutions	\$	2,765,618	\$	2,894,330	65404
546	800-610	Fire Marshal	\$	11,723,994	\$	11,787,994	65405
547	800-603	Real Estate	\$	250,000	\$	250,000	65406
		Education/Research					
548	800-611	Real Estate Recovery	\$	100,000	\$	100,000	65407

549	800-614	Real Estate	\$	3,586,754	\$	3,705,892	65408
550	800-617	Securities	\$	4,600,000	\$	4,800,000	65409
552	800-604	Credit Union	\$	2,613,356	\$	2,751,852	65410
553	800-607	Consumer Finance	\$	3,194,787	\$	3,228,019	65411
556	800-615	Industrial Compliance	\$	24,627,687	\$	25,037,257	65412
6A4	800-630	Real Estate	\$	658,506	\$	664,006	65413
		Appraiser-Operating					
653	800-629	UST	\$	1,353,632	\$	1,249,632	65414
		Registration/Permit					
		Fee					
TOTAL SSR State Special Revenue							65415
	Fund Group		\$	98,440,204	\$	99,639,897	65416
	Liquor Control Fund Group						65417
043	800-601	Merchandising	\$	341,079,554	\$	353,892,432	65418
043	800-627	Liquor Control	\$	15,278,936	\$	14,012,955	65419
		Operating					
043	800-633	Economic Development	\$	23,277,500	\$	29,029,500	65420
		Debt Service					
043	800-636	Revitalization Debt	\$	4,747,800	\$	9,736,300	65421
		Service					
TOTAL LCF Liquor Control							65422
	Fund Group		\$	384,383,790	\$	406,671,187	65423
TOTAL ALL BUDGET FUND GROUPS							65424
		GRANTS-VOLUNTEER FIRE DEPARTMENTS					65425
		The foregoing appropriation item 800-402, Grants-Volunteer					65426
		Fire Departments, shall be used to make annual grants to volunteer					65427
		fire departments of up to \$10,000, or up to \$25,000 if the					65428
		volunteer fire department provides service for an area affected by					65429
		a natural disaster. The grant program shall be administered by the					65430
		Fire Marshal under the Department of Commerce. The Fire Marshal					65431
		shall adopt rules necessary for the administration and operation					65432
		of the grant program.					65433

LABOR AND WORKER SAFETY 65434

The Department of Commerce may designate a portion of 65435
appropriation item 800-410, Labor and Worker Safety, to be used to 65436
match federal funding for the OSHA on-site consultation program. 65437

SMALL GOVERNMENT FIRE DEPARTMENTS 65438

Upon the request of the Director of Commerce, the Director of 65439
Budget and Management shall transfer \$250,000 cash in each fiscal 65440
year from the State Fire Marshal Fund (Fund 546) within the State 65441
Special Revenue Fund Group to the Small Government Fire 65442
Departments Fund (Fund 5F1) within the General Services Fund 65443
Group. 65444

Notwithstanding section 3737.17 of the Revised Code, the 65445
foregoing appropriation item 800-635, Small Government Fire 65446
Departments, may be used to provide loans to private fire 65447
departments. 65448

PENALTY ENFORCEMENT 65449

The foregoing appropriation item 800-621, Penalty 65450
Enforcement, shall be used to enforce sections 4115.03 to 4115.16 65451
of the Revised Code. 65452

UNCLAIMED FUNDS PAYMENTS 65453

The foregoing appropriation item 800-625, Unclaimed 65454
Funds-Claims, shall be used to pay claims pursuant to section 65455
169.08 of the Revised Code. If it is determined that additional 65456
amounts are necessary, the amounts are hereby appropriated. 65457

INCREASED APPROPRIATION AUTHORITY - MERCHANDISING 65458

The foregoing appropriation item 800-601, Merchandising, 65459
shall be used pursuant to section 4301.12 of the Revised Code. If 65460
it is determined that additional amounts are nessary, the amounts 65461
are hereby appropriated. 65462

ECONOMIC DEVELOPMENT DEBT SERVICE 65463

The foregoing appropriation item 800-633, Economic 65464
Development Debt Service, shall be used to meet all payments at 65465
the times they are required to be made during the period from July 65466
1, 2003, to June 30, 2005, for bond service charges on obligations 65467
issued under Chapter 166. of the Revised Code. If it is determined 65468
that additional appropriations are necessary for this purpose, 65469
such amounts are hereby appropriated, subject to the limitations 65470
set forth in section 166.11 of the Revised Code. The General 65471
Assembly acknowledges that an appropriation for this purpose is 65472
not required, but is made in this form and in this act for record 65473
purposes only. 65474

REVITALIZATION DEBT SERVICE 65475

The foregoing appropriation item 800-636, Revitalization Debt 65476
Service, shall be used to pay debt service and related financing 65477
costs under sections 151.01 and 151.40 of the Revised Code during 65478
the period from July 1, 2003, to June 30, 2005. If it is 65479
determined that additional appropriations are necessary for this 65480
purpose, such amounts are hereby appropriated. The General 65481
Assembly acknowledges the priority of the pledge of a portion of 65482
receipts from that source to obligations issued and to be issued 65483
under Chapter 166. of the Revised Code. 65484

ADMINISTRATIVE ASSESSMENTS 65485

Notwithstanding any other provision of law to the contrary, 65486
Fund 163, Division of Administration, shall receive assessments 65487
from all operating funds of the department in accordance with 65488
procedures prescribed by the Director of Commerce and approved by 65489
the Director of Budget and Management. 65490

Section 30. OCC OFFICE OF CONSUMERS' COUNSEL 65491

General Services Fund Group 65492

5F5 053-601 Operating Expenses	\$	8,401,478	\$	8,394,316	65493
TOTAL GSF General Services Fund	\$	8,401,478	\$	8,394,316	65494
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	8,401,478	\$	8,394,316	65495

Section 31. CEB CONTROLLING BOARD 65497

General Revenue Fund 65498

GRF 911-401 Emergency	\$	5,000,000	\$	5,000,000	65499
-----------------------	----	-----------	----	-----------	-------

Purposes/Contingencies

GRF 911-404 Mandate Assistance	\$	1,462,500	\$	1,462,500	65500
--------------------------------	----	-----------	----	-----------	-------

GRF 911-416 Educational Technology	\$	0	\$	23,000,000	65501
------------------------------------	----	---	----	------------	-------

GRF 911-441 Ballot Advertising	\$	487,500	\$	487,500	65502
--------------------------------	----	---------	----	---------	-------

Costs

TOTAL GRF General Revenue Fund	\$	6,950,000	\$	29,950,000	65503
--------------------------------	----	-----------	----	------------	-------

State Special Revenue Fund Group 65504

5E2 911-601 Disaster Services	\$	4,000,000	\$	0	65505
-------------------------------	----	-----------	----	---	-------

TOTAL SSR State Special 65506

Revenue Fund Group	\$	4,000,000	\$	0	65507
--------------------	----	-----------	----	---	-------

TOTAL ALL BUDGET FUND GROUPS	\$	10,950,000	\$	29,950,000	65508
------------------------------	----	------------	----	------------	-------

FEDERAL SHARE 65509

In transferring appropriations to or from appropriation items 65510
that have federal shares identified in this act, the Controlling 65511
Board shall add or subtract corresponding amounts of federal 65512
matching funds at the percentages indicated by the state and 65513
federal division of the appropriations in this act. Such changes 65514
are hereby appropriated. 65515

DISASTER ASSISTANCE 65516

Pursuant to requests submitted by the Department of Public 65517
Safety, the Controlling Board may approve transfers from the 65518
Emergency Purposes Fund to a Department of Public Safety General 65519
Revenue Fund appropriation item to provide funding for assistance 65520

to political subdivisions made necessary by natural disasters or 65521
emergencies. Such transfers may be requested and approved prior to 65522
the occurrence of any specific natural disasters or emergencies in 65523
order to facilitate the provision of timely assistance. 65524

SOUTHERN OHIO CORRECTIONAL FACILITY COST 65525

The Office of Criminal Justice Services and the Public 65526
Defender Commission may each request, upon approval of the 65527
Director of Budget and Management, additional funds from the 65528
Emergency Purposes Fund for costs related to the disturbance that 65529
occurred on April 11, 1993, at the Southern Ohio Correctional 65530
Facility in Lucasville, Ohio. 65531

DISASTER SERVICES 65532

Pursuant to requests submitted by the Department of Public 65533
Safety, the Controlling Board may approve transfers from the 65534
foregoing appropriation item 911-601, Disaster Services, to a 65535
Department of Public Safety General Revenue Fund appropriation 65536
item to provide for assistance to political subdivisions made 65537
necessary by natural disasters or emergencies. These transfers may 65538
be requested and approved prior to the occurrence of any specific 65539
natural disasters or emergencies in order to facilitate the 65540
provision of timely assistance. The Emergency Management Agency of 65541
the Department of Public Safety shall use the funding for disaster 65542
aid requests that meet the Emergency Management Agency's criteria 65543
for assistance. 65544

The foregoing appropriation item 911-601, Disaster Services, 65545
shall be used by the Controlling Board, pursuant to requests 65546
submitted by state agencies, to transfer cash and appropriation 65547
authority to any fund and appropriation item for the payment of 65548
state agency program expenses as follows: 65549

- (A) The southern Ohio flooding, referred to as 65550
FEMA-DR-1164-OH; 65551

(B) The flood/storm disaster referred to as FEMA-DR-1227-OH; 65552

(C) The Southern Ohio flooding, referred to as 65553
FEMA-DR-1321-OH; 65554

(D) The flooding referred to as FEMA-DR-1339-OH; 65555

(E) The tornado/storms referred to as FEMA-DR-1343-OH; 65556

(F) Other disasters declared by the Governor, if the Director 65557
of Budget and Management determines that sufficient funds exist 65558
beyond the expected program costs of these disasters. 65559

The unencumbered balance of appropriation item 911-601, 65560
Disaster Services, at the end of fiscal year 2004 is transferred 65561
to fiscal year 2005 for use under the same appropriation item. 65562

MANDATE ASSISTANCE 65563

(A) The foregoing appropriation item 911-404, Mandate 65564
Assistance, shall be used to provide financial assistance to local 65565
units of government, school districts, and fire departments for 65566
the cost of the following three unfunded state mandates: 65567

(1) The cost to county prosecutors for prosecuting certain 65568
felonies that occur on the grounds of state institutions operated 65569
by the Department of Rehabilitation and Correction and the 65570
Department of Youth Services; 65571

(2) The cost, primarily to small villages and townships, of 65572
providing firefighter training and equipment or gear; 65573

(3) The cost to school districts of in-service training for 65574
child abuse detection. 65575

(B) The Department of Commerce, the Office of Criminal 65576
Justice Services, and the Department of Education may prepare and 65577
submit to the Controlling Board one or more requests to transfer 65578
appropriations from appropriation item 911-404, Mandate 65579
Assistance. The state agencies charged with this administrative 65580

responsibility are listed below, as well as the estimated annual amounts that may be used for each program of state financial assistance.

PROGRAM	ADMINISTERING AGENCY	ESTIMATED ANNUAL AMOUNT	
Prosecution Costs	Office of Criminal Justice Services	\$146,500	65586
Firefighter Training Costs	Department of Commerce	\$731,000	65588
Child Abuse Detection Training Costs	Department of Education	\$585,000	65589

(C) Subject to the total amount appropriated in each fiscal year for appropriation item 911-404, Mandate Assistance, the Department of Commerce, the Office of Criminal Justice Services, and the Department of Education may request from the Controlling Board that amounts smaller or larger than these estimated annual amounts be transferred to each program.

(D) In addition to making the initial transfers requested by the Department of Commerce, the Office of Criminal Justice Services, and the Department of Education, the Controlling Board may transfer appropriations received by a state agency under this section back to appropriation item 911-404, Mandate Assistance, or to one or more of the other programs of state financial assistance identified under this section.

(E) It is expected that not all costs incurred by local units of government, school districts, and fire departments under each of the three programs of state financial assistance identified under this section will be fully reimbursed by the state. Reimbursement levels may vary by program and shall be based on: the relationship between the appropriation transfers requested by the Department of Commerce, the Office of Criminal Justice Services, and the Department of Education and provided by the

Controlling Board for each of the programs; the rules and 65611
procedures established for each program by the administering state 65612
agency; and the actual costs incurred by local units of 65613
government, school districts, and fire departments. 65614

(F) Each of these programs of state financial assistance 65615
shall be carried out as follows: 65616

(1) PROSECUTION COSTS 65617

(a) Appropriations may be transferred to the Office of 65618
Criminal Justice Services to cover local prosecution costs for 65619
aggravated murder, murder, felonies of the first degree, and 65620
felonies of the second degree that occur on the grounds of 65621
institutions operated by the Department of Rehabilitation and 65622
Correction and the Department of Youth Services. 65623

(b) Upon a delinquency filing in juvenile court or the return 65624
of an indictment for aggravated murder, murder, or any felony of 65625
the first or second degree that was committed at a Department of 65626
Youth Services or a Department of Rehabilitation and Correction 65627
institution, the affected county may, in accordance with rules 65628
that the Office of Criminal Justice Services shall adopt, apply to 65629
the Office of Criminal Justice Services for a grant to cover all 65630
documented costs that are incurred by the county prosecutor's 65631
office. 65632

(c) Twice each year, the Office of Criminal Justice Services 65633
shall designate counties to receive grants from those counties 65634
that have submitted one or more applications in compliance with 65635
the rules that have been adopted by the Office of Criminal Justice 65636
Services for the receipt of such grants. In each year's first 65637
round of grant awards, if sufficient appropriations have been 65638
made, up to a total of \$100,000 may be awarded. In each year's 65639
second round of grant awards, the remaining appropriations 65640
available for this purpose may be awarded. 65641

(d) If for a given round of grants there are insufficient 65642
appropriations to make grant awards to all the eligible counties, 65643
the first priority shall be given to counties with cases involving 65644
aggravated murder and murder; second priority shall be given to 65645
cases involving a felony of the first degree; and third priority 65646
shall be given to cases involving a felony of the second degree. 65647
Within these priorities, the grant awards shall be based on the 65648
order in which the applications were received, except that 65649
applications for cases involving a felony of the first or second 65650
degree shall not be considered in more than two consecutive rounds 65651
of grant awards. 65652

(2) FIREFIGHTER TRAINING COSTS 65653

Appropriations may be transferred to the Department of 65654
Commerce for use as full or partial reimbursement to local units 65655
of government and fire departments for the cost of firefighter 65656
training and equipment or gear. In accordance with rules that the 65657
department shall adopt, a local unit of government or fire 65658
department may apply to the department for a grant to cover all 65659
documented costs that are incurred to provide firefighter training 65660
and equipment or gear. The department shall make grants within the 65661
limits of the funding provided, with priority given to fire 65662
departments that serve small villages and townships. 65663

(3) CHILD ABUSE DETECTION TRAINING COSTS 65664

Appropriations may be transferred to the Department of 65665
Education for disbursement to local school districts as full or 65666
partial reimbursement for the cost of providing in-service 65667
training for child abuse detection. In accordance with rules that 65668
the department shall adopt, a local school district may apply to 65669
the department for a grant to cover all documented costs that are 65670
incurred to provide in-service training for child abuse detection. 65671
The department shall make grants within the limits of the funding 65672

provided. 65673

(G) Any moneys allocated within appropriation item 911-404, 65674
Mandate Assistance, not fully utilized may, upon application of 65675
the Ohio Public Defender Commission, and with the approval of the 65676
Controlling Board, be disbursed to boards of county commissioners 65677
to provide additional reimbursement for the costs incurred by 65678
counties in providing defense to indigent defendants pursuant to 65679
Chapter 120. of the Revised Code. 65680

The amount to be disbursed to each county shall be allocated 65681
proportionately on the basis of the total amount of reimbursement 65682
paid to each county as a percentage of the amount of reimbursement 65683
paid to all of the counties during the most recent state fiscal 65684
year for which data is available and as calculated by the Ohio 65685
Public Defender Commission. 65686

EDUCATIONAL TECHNOLOGY 65687

Of the foregoing appropriation item 911-416, Educational 65688
Technology, up to \$23,000,000 in fiscal year 2005 may be 65689
transferred by the Director of Budget and Management to the Ohio 65690
Department of Education based on the Ohio Technology Integration 65691
Task Force Plan pursuant to the section entitled "Ohio Technology 65692
Integration Task Force" of this act. 65693

BALLOT ADVERTISING COSTS 65694

Pursuant to requests submitted by the Ohio Ballot Board, the 65695
Controlling Board shall approve transfers from the foregoing 65696
appropriation item 911-441, Ballot Advertising Costs, to an Ohio 65697
Ballot Board appropriation item in order to reimburse county 65698
boards of elections for the cost of public notices associated with 65699
statewide ballot initiatives. 65700

Of the foregoing appropriation item 911-441, Ballot 65701
Advertising Costs, the Director of Budget and Management shall 65702
transfer any amounts that are not needed for the purpose of 65703

reimbursing county boards of elections for the cost of public 65704
 notices associated with statewide ballot initiatives to 65705
 appropriation item 911-404, Mandate Assistance. 65706

Section 32. COS STATE BOARD OF COSMETOLOGY 65707

General Services Fund Group 65708
 4K9 879-609 Operating Expenses \$ 2,681,359 \$ 2,822,359 65709
 TOTAL GSF General Services Fund 65710
 Group \$ 2,681,359 \$ 2,822,359 65711
 TOTAL ALL BUDGET FUND GROUPS \$ 2,681,359 \$ 2,822,359 65712

**Section 33. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND 65714
 FAMILY THERAPIST BOARD 65715**

General Services Fund Group 65716
 4K9 899-609 Operating Expenses \$ 1,021,524 \$ 1,044,812 65717
 TOTAL GSF General Services Fund 65718
 Group \$ 1,021,524 \$ 1,044,812 65719
 TOTAL ALL BUDGET FUND GROUPS \$ 1,021,524 \$ 1,044,812 65720

Section 34. CLA COURT OF CLAIMS 65722

General Revenue Fund 65723
 GRF 015-321 Operating Expenses \$ 3,255,597 \$ 3,374,404 65724
 TOTAL GRF General Revenue Fund \$ 3,255,597 \$ 3,374,404 65725
 State Special Revenue Fund Group 65726
 5K2 015-603 CLA Victims of Crime \$ 1,532,043 \$ 1,582,684 65727
 TOTAL SSR State Special Revenue 65728
 Fund Group \$ 1,532,043 \$ 1,582,684 65729
 TOTAL ALL BUDGET FUND GROUPS \$ 4,787,640 \$ 4,957,088 65730

Section 35. CJS OFFICE OF CRIMINAL JUSTICE SERVICES 65732

General Revenue Fund 65733
 GRF 196-401 Criminal Justice \$ 534,570 \$ 520,503 65734

	Information System					
GRF 196-403	Center for Violence	\$	169,177	\$	167,904	65735
	Prevention					
GRF 196-405	Violence Prevention	\$	707,076	\$	688,469	65736
	Subsidy					
GRF 196-424	Operating Expenses	\$	1,581,371	\$	1,577,971	65737
TOTAL GRF	General Revenue Fund	\$	2,992,194	\$	2,954,847	65738
	General Services Fund Group					65739
4P6 196-601	General Services	\$	135,450	\$	86,500	65740
TOTAL GSF	General Services Fund	\$	135,450	\$	86,500	65741
	Group					
	Federal Special Revenue Fund Group					65742
3L5 196-604	Justice Programs	\$	30,334,908	\$	30,311,870	65743
3U1 196-602	Criminal Justice	\$	1,000,000	\$	0	65744
	Federal Programs					
3V8 196-605	Federal Program	\$	250,000	\$	0	65745
	Purposes FFY 01					
TOTAL FED	Federal Special Revenue	\$	31,584,908	\$	30,311,890	65746
	Fund Group					
TOTAL ALL BUDGET FUND GROUPS		\$	34,712,552	\$	33,353,237	65747
	INDIGENT DEFENSE					65748
	The Office of Criminal Justice Services shall make all					65749
	efforts to maximize the amount of funding available for the					65750
	defense of indigent persons.					65751
	CRIMINAL JUSTICE INFORMATION SYSTEM					65752
	The foregoing appropriation item 196-401, Criminal Justice					65753
	Information System, shall be used by the Office of Criminal					65754
	Justice Services to work on a plan to improve Ohio's criminal					65755
	justice information systems. The Director of Criminal Justice					65756
	Services shall evaluate the progress of this plan and issue a					65757
	report to the Governor, the Speaker and the Minority Leader of the					65758

House of Representatives, the President and the Minority Leader of 65759
the Senate, the Criminal Justice Policy Board, and the Legislative 65760
Service Commission by the first day of January of each year of the 65761
two-year biennium beginning July 1, 2003, and ending June 30, 65762
2005. 65763

OPERATING EXPENSES 65764

Of the foregoing appropriation item 196-424, Operating 65765
Expenses, up to \$650,000 in each fiscal year shall be used for the 65766
purpose of matching federal funds. 65767

JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANT 65768

The foregoing appropriation item 196-602, Criminal Justice 65769
Federal Programs, shall be used to fund and close out the Juvenile 65770
Accountability Incentive Block Grant Program for federal fiscal 65771
year 1999. 65772

Section 36. DEN STATE DENTAL BOARD 65773

General Services Fund Group 65774

4K9 880-609 Operating Expenses \$ 1,324,456 \$ 1,346,656 65775

TOTAL GSF General Services Fund 65776

Group \$ 1,324,456 \$ 1,346,656 65777

TOTAL ALL BUDGET FUND GROUPS \$ 1,324,456 \$ 1,346,656 65778

Section 37. BDP BOARD OF DEPOSIT 65780

General Services Fund Group 65781

4M2 974-601 Board of Deposit \$ 838,000 \$ 838,000 65782

TOTAL GSF General Services Fund 65783

Group \$ 838,000 \$ 838,000 65784

TOTAL ALL BUDGET FUND GROUPS \$ 838,000 \$ 838,000 65785

BOARD OF DEPOSIT EXPENSE FUND 65786

Upon receiving certification of expenses from the Treasurer 65787
of State, the Director of Budget and Management shall transfer 65788

cash from the Investment Earnings Redistribution Fund (Fund 608) 65789
to the Board of Deposit Expense Fund (Fund 4M2). The latter fund 65790
shall be used to pay for banking charges and fees required for the 65791
operation of the State of Ohio Regular Account. 65792

Section 38. DEV DEPARTMENT OF DEVELOPMENT 65793

General Revenue Fund 65794

GRF 195-321 Operating Expenses \$ 2,695,236 \$ 3,020,115 65795

GRF 195-401 Thomas Edison Program \$ 18,256,392 \$ 18,774,084 65796

GRF 195-404 Small Business \$ 1,740,722 \$ 1,740,722 65797

Development

GRF 195-405 Minority Business \$ 1,620,755 \$ 1,669,378 65798

Development Division

GRF 195-407 Travel and Tourism \$ 4,549,345 \$ 4,549,345 65799

GRF 195-408 Coal Research \$ 588,041 \$ 599,802 65800

Development

GRF 195-412 Business Development \$ 9,796,082 \$ 10,775,690 65801

Grants

GRF 195-414 First Frontier Match \$ 399,987 \$ 399,987 65802

GRF 195-415 Economic Development \$ 6,814,283 \$ 6,645,589 65803

Division and Regional

Offices

GRF 195-416 Governor's Office of \$ 4,634,434 \$ 4,918,967 65804

Appalachia

GRF 195-417 Urban/Rural Initiative \$ 589,390 \$ 589,390 65805

GRF 195-422 Third Frontier Action \$ 19,169,000 \$ 20,685,900 65806

Fund

GRF 195-426 Clean Ohio \$ 558,632 \$ 586,563 65807

Administration

GRF 195-432 International Trade \$ 5,236,353 \$ 5,236,353 65808

GRF 195-433 State Marketing \$ 750,000 \$ 1,000,000 65809

Program

GRF 195-434 Investment in Training \$ 13,450,250 \$ 14,795,275 65810

	Grants				
GRF 195-436	Labor/Management	\$	811,869	\$ 811,869	65811
	Cooperation				
GRF 195-497	CDBG Operating Match	\$	1,107,400	\$ 1,107,400	65812
GRF 195-498	State Energy Match	\$	100,000	\$ 100,000	65813
GRF 195-501	Appalachian Local	\$	380,080	\$ 380,080	65814
	Development Districts				
GRF 195-502	Appalachian Regional	\$	238,274	\$ 246,803	65815
	Commission Dues				
GRF 195-507	Travel and Tourism	\$	840,000	\$ 840,000	65816
	Grants				
GRF 195-515	Economic Development	\$	10,000,000	\$ 10,000,000	65817
	Contingency				
GRF 195-905	Third Frontier	\$	0	\$ 7,360,000	65818
	Research &				
	Commercialization				
	General Obligation				
	Debt Service				
GRF 195-906	Coal Research and	\$	7,231,200	\$ 9,185,100	65819
	Development General				
	Obligation Debt				
	Service				
TOTAL GRF	General Revenue Fund	\$	111,557,725	\$ 126,018,412	65820
	General Services Fund Group				
					65821
135 195-605	Supportive Services	\$	7,417,068	\$ 7,539,686	65822
136 195-621	International Trade	\$	24,915	\$ 24,915	65823
685 195-636	General Reimbursements	\$	1,316,012	\$ 1,232,530	65824
TOTAL GSF	General Services Fund				65825
Group		\$	8,757,995	\$ 8,797,131	65826
	Federal Special Revenue Fund Group				
					65827
3K8 195-613	Community Development	\$	65,000,000	\$ 65,000,000	65828
	Block Grant				

3K9	195-611	Home Energy Assistance Block Grant	\$	85,036,000	\$	85,036,000	65829
3K9	195-614	HEAP Weatherization	\$	16,219,479	\$	16,219,479	65830
3L0	195-612	Community Services Block Grant	\$	25,235,000	\$	25,235,000	65831
3V1	195-601	HOME Program	\$	40,000,000	\$	40,000,000	65832
308	195-602	Appalachian Regional Commission	\$	350,200	\$	350,200	65833
308	195-603	Housing and Urban Development	\$	5,000,000	\$	5,000,000	65834
308	195-605	Federal Projects	\$	15,300,248	\$	15,300,248	65835
308	195-609	Small Business Administration	\$	4,196,381	\$	4,296,381	65836
308	195-618	Energy Federal Grants	\$	3,397,659	\$	3,397,659	65837
335	195-610	Oil Overcharge	\$	8,500,000	\$	8,500,000	65838
380	195-622	Housing Development Operating	\$	5,606,080	\$	5,667,627	65839
TOTAL FED Federal Special Revenue							65840
Fund Group			\$	273,841,047	\$	274,002,594	65841
State Special Revenue Fund Group							65842
4F2	195-639	State Special Projects	\$	540,183	\$	290,183	65843
4H4	195-641	First Frontier	\$	500,000	\$	500,000	65844
4S0	195-630	Enterprise Zone Operating	\$	211,900	\$	211,900	65845
4S1	195-634	Job Creation Tax Credit Operating	\$	375,800	\$	375,800	65846
4W1	195-646	Minority Business Enterprise Loan	\$	2,580,597	\$	2,580,597	65847
444	195-607	Water and Sewer Commission Loans	\$	523,775	\$	523,775	65848
445	195-617	Housing Finance Operating	\$	5,040,843	\$	4,983,738	65849
450	195-624	Minority Business	\$	13,563	\$	13,563	65850

		Bonding Program				
		Administration				
451	195-625	Economic Development	\$	2,358,310	\$	2,358,310 65851
		Financing Operating				
5M4	195-659	Universal Service	\$	170,000,000	\$	170,000,000 65852
5M5	195-660	Energy Efficiency	\$	12,000,000	\$	12,000,000 65853
		Revolving Loan				
611	195-631	Water and Sewer	\$	15,713	\$	15,713 65854
		Administration				
617	195-654	Volume Cap	\$	200,000	\$	200,000 65855
		Administration				
646	195-638	Low and Moderate	\$	40,000,000	\$	40,000,000 65856
		Income Housing Trust				
		Fund				
TOTAL SSR State Special Revenue						65857
Fund Group			\$	234,360,684	\$	234,053,579 65858
Facilities Establishment Fund Group						65859
037	195-615	Facilities	\$	63,931,149	\$	63,931,149 65860
		Establishment				
4Z6	195-647	Rural Industrial Park	\$	5,000,000	\$	5,000,000 65861
		Loan				
5D2	195-650	Urban Redevelopment	\$	10,475,000	\$	10,475,000 65862
		Loans				
5H1	195-652	Family Farm Loan	\$	1,500,000	\$	1,500,000 65863
		Guarantee				
5S8	195-627	Rural Development	\$	5,000,000	\$	5,000,000 65864
		Initiative				
5S9	195-628	Capital Access Loan	\$	3,000,000	\$	3,000,000 65865
		Program				
TOTAL 037 Facilities						65866
Establishment Fund Group			\$	88,906,149	\$	88,906,149 65867
Clean Ohio Revitalization Fund						65868

003 195-663 Clean Ohio Operating	\$	150,000	\$	150,000	65869
TOTAL 003 Clean Ohio Revitalization	\$	150,000	\$	150,000	65870
Fund					
Coal Research/Development Fund					65871
046 195-632 Coal Research and	\$	13,168,357	\$	13,168,357	65872
Development Fund					
TOTAL 046 Coal Research/					65873
Development Fund	\$	13,168,357	\$	13,168,357	65874
TOTAL ALL BUDGET FUND GROUPS	\$	730,741,957	\$	745,096,222	65875

Section 38.01. THOMAS EDISON PROGRAM 65877

The foregoing appropriation item 195-401, Thomas Edison 65878
Program, shall be used for the purposes of sections 122.28 to 65879
122.38 of the Revised Code in order to provide funds for 65880
cooperative public and private efforts in technological innovation 65881
to promote the development and transfer of technology by and to 65882
Ohio businesses that will lead to the creation of jobs, and to 65883
provide for the administration of this program by the Technology 65884
Division. 65885

Of the foregoing appropriation item 195-401, Thomas Edison 65886
Program, not more than \$2,000,000 in fiscal year 2004 and 65887
\$2,300,000 in fiscal year 2005 shall be used for operating 65888
expenditures in administering the programs of the Technology 65889
Division. 65890

Section 38.02. SMALL BUSINESS DEVELOPMENT 65891

The foregoing appropriation item 195-404, Small Business 65892
Development, shall be used to ensure that the unique needs and 65893
concerns of small businesses are addressed. 65894

The foregoing appropriation item 195-404, Small Business 65895
Development, may be used to provide grants to local organizations 65896
to support the operation of Small Business Development Centers and 65897

other local economic development activity promoting small 65898
business, and for the cost of administering the small business 65899
development center program. The centers shall provide technical, 65900
financial, and management consultation for small business and 65901
shall facilitate access to state and federal programs. These funds 65902
shall be used as matching funds for grants from the United States 65903
Small Business Administration and other federal agencies, pursuant 65904
to Public Law No. 96-302 (1980) as amended by Public Law No. 65905
98-395 (1984), and regulations and policy guidelines for the 65906
programs under this law. 65907

In addition, the Office of Small Business may operate the 65908
1st-Stop Business Connection and implement and coordinate the 65909
duties imposed on the Department of Development by Am. Sub. S.B. 65910
239 of the 115th General Assembly. 65911

MINORITY BUSINESS DEVELOPMENT DIVISION 65912

Of the foregoing appropriation item 195-405, Minority 65913
Business Development Division, up to \$1,060,000 but not less than 65914
\$954,000 in each fiscal year shall be used to fund minority 65915
contractors and business assistance organizations. The Minority 65916
Business Development Division shall determine which cities need 65917
minority contractors and business assistance organizations by 65918
utilizing United States Census Bureau data and zip codes to locate 65919
the highest concentrations of minority businesses. The Minority 65920
Business Development Division also shall determine the numbers of 65921
minority contractors and business assistance organizations 65922
necessary and the amount of funding to be provided each. In 65923
addition, the Minority Business Development Division shall 65924
continue to plan and implement business conferences. 65925

Section 38.03. COAL RESEARCH DEVELOPMENT 65926

The foregoing appropriation item 195-408, Coal Research 65927
Development, shall be used for the administrative costs of the 65928

Coal Development Office within the Technology Division. 65929

Section 38.04. BUSINESS DEVELOPMENT 65930

The foregoing appropriation item 195-412, Business 65931
Development Grants, shall be used as an incentive for attracting 65932
and retaining business opportunities for the state. Any such 65933
business opportunity, whether new, expanding, or relocating in 65934
Ohio, is eligible for funding. The project must create or retain a 65935
significant number of jobs for Ohioans. Grant awards may be 65936
considered only when (1) the project's viability hinges on an 65937
award of funds from appropriation item 195-412, Business 65938
Development Grants; (2) all other public or private sources of 65939
financing have been considered; or (3) the funds act as a catalyst 65940
for the infusion into the project of other financing sources. 65941

The department's primary goal shall be to award funds to 65942
political subdivisions of the state for off-site infrastructure 65943
improvements. In order to meet the particular needs of economic 65944
development in a region, the department may elect to award funds 65945
directly to a business for on-site infrastructure improvements. 65946
"Infrastructure improvements" mean improvements to water system 65947
facilities, sewer and sewage treatment facilities, electric or gas 65948
service facilities, fiber optic facilities, rail facilities, site 65949
preparation, and parking facilities. The Director of Development 65950
may recommend the funds be used in an alternative manner when 65951
deemed appropriate to meet an extraordinary economic development 65952
opportunity or need. 65953

The foregoing appropriation item 195-412, Business 65954
Development Grants, may be expended only after the submission of a 65955
request to the Controlling Board by the Department of Development 65956
outlining the planned use of the funds, and the subsequent 65957
approval of the request by the Controlling Board. 65958

The foregoing appropriation item 195-412, Business 65959

Development Grants, may be used for, but is not limited to, 65960
construction, rehabilitation, and acquisition projects for rail 65961
freight assistance as requested by the Department of 65962
Transportation. The Director of Transportation shall submit the 65963
proposed projects to the Director of Development for an evaluation 65964
of potential economic benefit. 65965

Section 38.05. FIRST FRONTIER MATCH 65966

The foregoing appropriation item 195-414, First Frontier 65967
Match, shall be used as matching funds to targeted counties for 65968
the purpose of marketing state, regional, and local 65969
characteristics that may attract economic development. "Targeted 65970
counties" mean counties that have a population of less than 65971
175,000 residents. The appropriation may be used either for 65972
marketing programs by individual targeted counties or for regional 65973
marketing campaigns that are marketing programs in which at least 65974
one targeted county is participating with one or more other 65975
targeted counties or larger counties. 65976

ECONOMIC DEVELOPMENT DIVISION AND REGIONAL OFFICES 65977

The foregoing appropriation item 195-415, Economic 65978
Development Division and Regional Offices, shall be used for the 65979
operating expenses of the Economic Development Division and the 65980
regional economic development offices and for grants for 65981
cooperative economic development ventures. 65982

Section 38.06. GOVERNOR'S OFFICE OF APPALACHIA 65983

The foregoing appropriation item 195-416, Governor's Office 65984
of Appalachia, shall be used for the administrative costs of 65985
planning and liaison activities for the Governor's Office of 65986
Appalachia. Funds not expended for planning and liaison activities 65987
may be expended for special project grants within the Appalachian 65988
Region. 65989

Of the foregoing appropriation item 195-416, Governor's Office of Appalachia, up to \$250,000 each fiscal year shall be used to match federal funds from the Appalachian Regional Commission to provide job training to impact the Appalachian Region.

URBAN/RURAL INITIATIVE

The foregoing appropriation item 195-417, Urban/Rural Initiative, shall be used to make grants in accordance with sections 122.19 to 122.22 of the Ohio Revised Code.

Section 38.07. THIRD FRONTIER ACTION FUND

The foregoing appropriation item 195-422, Third Frontier Action Fund, shall be used to make grants in accordance with sections 184.01 and 184.02 of the Revised Code. Prior to the release of funds from appropriation item 195-422, Third Frontier Action Fund, each grant award shall be recommended for funding by the Third Frontier Commission and obtain approval from the Controlling Board.

Of the foregoing appropriation item 195-422, Third Frontier Action Fund, not more than six per cent in each fiscal year shall be used for operating expenditures in administering the program.

In addition to the six per cent for operating expenditures, an additional administrative amount, not to exceed \$1,500,000 within the biennium, shall be available for proposal evaluation, research and analyses, and marketing efforts deemed necessary to receive and disseminate information about science and technology-related opportunities in the state.

SCIENCE AND TECHNOLOGY COLLABORATION

The Department of Development shall work in close collaboration with the Board of Regents and the Third Frontier Commission in relation to appropriation items and programs listed

in the following paragraph, and other technology-related 66020
appropriations and programs in the Department of Development and 66021
the Board of Regents as those agencies may designate, to ensure 66022
implementation of a coherent state strategy with respect to 66023
science and technology. 66024

Each of the following appropriations and programs: 195-401, 66025
Thomas Edison Program; 195-408, Coal Research Development; 66026
195-422, Third Frontier Action Fund; 195-632, Coal Research and 66027
Development Fund; 235-454, Research Challenge; 235-510, Ohio 66028
Supercomputer Center; 235-527, Ohio Aerospace Institute; 235-535, 66029
Agricultural Research and Development Center; 235-553, Dayton Area 66030
Graduate Studies Institute; 235-554, Computer Science Graduate 66031
Education; 235-556, Ohio Academic Resources Network; and 195-405, 66032
Biomedical Research and Technology Transfer Trust, shall be 66033
reviewed annually by the Third Frontier Commission with respect to 66034
its development of complementary relationships within a combined 66035
state science and technology investment portfolio and its overall 66036
contribution to the state's science and technology strategy, 66037
including the adoption of appropriately consistent criteria for: 66038
(1) the scientific merit of activities supported by the program; 66039
(2) the relevance of the program's activities to commercial 66040
opportunities in the private sector; (3) the private sector's 66041
involvement in a process that continually evaluates commercial 66042
opportunities to use the work supported by the program; and (4) 66043
the ability of the program and recipients of grant funding from 66044
the program to engage in activities that are collaborative, 66045
complementary, and efficient with respect to the expenditure of 66046
state funds. 66047

All programs listed in the preceding paragraph shall provide 66048
annual reports to the Third Frontier Commission discussing 66049
existing, planned, or possible collaborations between programs and 66050
recipients of grant funding related to technology, development, 66051

commercialization, and supporting Ohio's economic development. The 66052
annual review by the Third Frontier Commission shall be a 66053
comprehensive review of the entire state science and technology 66054
program portfolio rather than a review of individual programs. 66055

Section 38.08. INTERNATIONAL TRADE 66056

The foregoing appropriation item 195-432, International 66057
Trade, shall be used to operate and to maintain Ohio's 66058
out-of-state trade offices. 66059

The Director of Development may enter into contracts with 66060
foreign nationals to staff foreign offices. Such contracts may be 66061
paid in local currency or United States currency and shall be 66062
exempt from the provisions of section 127.16 of the Revised Code. 66063
The director also may establish foreign currency accounts in 66064
accordance with section 122.05 of the Revised Code for the payment 66065
of expenses related to the operation and maintenance of the 66066
foreign trade offices. 66067

The foregoing appropriation item 195-432, International 66068
Trade, shall be used to fund the International Trade Division and 66069
to assist Ohio manufacturers and agricultural producers in 66070
exporting to foreign countries in conjunction with the Department 66071
of Agriculture. 66072

Of the foregoing appropriation item 195-432, International 66073
Trade, up to \$35,000 may be used to purchase gifts for 66074
representatives of foreign governments or dignitaries of foreign 66075
countries. 66076

Section 38.09. OHIO INVESTMENT IN TRAINING PROGRAM 66077

The foregoing appropriation item 195-434, Investment in 66078
Training Grants, shall be used to promote training through grants 66079
for the reimbursement of eligible training expenses. 66080

Section 38.10. CDBG OPERATING MATCH 66081

The foregoing appropriation item 195-497, CDBG Operating Match, shall be used to provide matching funds as requested by the United States Department of Housing and Urban Development to administer the federally funded Community Development Block Grant (CDBG) program. 66082
66083
66084
66085
66086

STATE OPERATING MATCH 66087

The foregoing appropriation item 195-498, State Energy Match, shall be used to provide matching funds as required by the United States Department of Energy to administer the federally funded State Energy Plan. 66088
66089
66090
66091

Section 38.11. TRAVEL AND TOURISM GRANTS 66092

The foregoing appropriation item 195-507, Travel and Tourism Grants, shall be used to provide grants to local organizations to support various local travel and tourism events in Ohio. 66093
66094
66095

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, up to \$160,000 in each fiscal year of the biennium may be used to support the outdoor dramas Trumpet in the Land, Blue Jacket, Tecumseh, and the Becky Thatcher Showboat Drama; \$40,000 in each fiscal year shall be used for the Cincinnati Film Commission; \$600,000 in each fiscal year shall be used for grants to the International Center for the Preservation of Wild Animals; and \$40,000 in fiscal year 2004 shall be used for the United States Senior Open in Toledo. 66096
66097
66098
66099
66100
66101
66102
66103
66104

Section 38.12. COAL RESEARCH AND DEVELOPMENT GENERAL 66105

OBLIGATION DEBT SERVICE 66106

The foregoing appropriation item 195-906, Coal Research and Development General Obligation Debt Service, shall be used to pay 66107
66108

all debt service and related financing costs at the times they are 66109
required to be made under sections 151.01 and 151.07 of the 66110
Revised Code during the period from July 1, 2003, to June 30, 66111
2005. The Office of the Sinking Fund or the Director of Budget and 66112
Management shall effectuate the required payments by an intrastate 66113
transfer voucher. 66114

THIRD FRONTIER RESEARCH & COMMERCIALIZATION GENERAL 66115
OBLIGATION DEBT SERVICE 66116

The foregoing appropriation item 195-905, Third Frontier 66117
Research & Commercialization General Obligation Debt Service, 66118
shall be used to pay all debt service and related financing costs 66119
during the period from July 1, 2003, to June 30, 2005, on 66120
obligations to be issued for research and development purposes 66121
under Section 2p of Article VIII, Ohio Constitution, and 66122
implementing legislation. The Office of the Sinking Fund or the 66123
Director of Budget and Management shall effectuate the required 66124
payments by an intrastate transfer voucher. 66125

Section 38.13. SUPPORTIVE SERVICES 66126

The Director of Development may assess divisions of the 66127
department for the cost of central service operations. Such an 66128
assessment shall be based on a plan submitted to and approved by 66129
the Office of Budget and Management by the first day of August of 66130
each fiscal year, and contain the characteristics of 66131
administrative ease and uniform application. 66132

A division's payments shall be credited to the Supportive 66133
Services Fund (Fund 135) using an intrastate transfer voucher. 66134

GENERAL REIMBURSEMENT 66135

The foregoing appropriation item 195-636, General 66136
Reimbursements, shall be used for conference and subscription fees 66137
and other reimbursable costs. Revenues to the General 66138

Reimbursement Fund (Fund 685) shall consist of fees and other 66139
moneys charged for conferences, subscriptions, and other 66140
administrative costs that are not central service costs. 66141

Section 38.14. HEAP WEATHERIZATION 66142

Fifteen per cent of the federal funds received by the state 66143
for the Home Energy Assistance Block Grant shall be deposited in 66144
appropriation item 195-614, HEAP Weatherization (Fund 3K9), and 66145
shall be used to provide home weatherization services in the 66146
state. 66147

STATE SPECIAL PROJECTS 66148

The foregoing appropriation item 195-639, State Special 66149
Projects, shall be used as a general account for the deposit of 66150
private-sector funds from utility companies and other 66151
miscellaneous state funds. Private-sector moneys shall be used to 66152
(1) pay the expenses of verifying the income-eligibility of HEAP 66153
applicants, (2) market economic development opportunities in the 66154
state, and (3) leverage additional federal funds. State funds 66155
shall be used to match federal housing grants for the homeless. 66156

Section 38.15. MINORITY BUSINESS ENTERPRISE LOAN 66157

All repayments from the Minority Development Financing 66158
Advisory Board loan program and the Ohio Mini-Loan Guarantee 66159
Program shall be deposited in the State Treasury to the credit of 66160
the Minority Business Enterprise Loan Fund (Fund 4W1). 66161

All operating costs of administering the Minority Business 66162
Enterprise Loan Fund shall be paid from the Minority Business 66163
Enterprise Loan Fund (Fund 4WI). 66164

MINORITY BUSINESS BONDING FUND 66165

Notwithstanding Chapters 122., 169., and 175. of the Revised 66166
Code and other provisions of Am. Sub. H.B. 283 of the 123rd 66167

General Assembly, the Director of Development may, upon the 66168
recommendation of the Minority Development Financing Advisory 66169
Board, pledge up to \$10,000,000 in the 2003-2005 biennium of 66170
unclaimed funds administered by the Director of Commerce and 66171
allocated to the Minority Business Bonding Program pursuant to 66172
section 169.05 of the Revised Code. The transfer of any cash by 66173
the Director of Budget and Management from the Department of 66174
Commerce's Unclaimed Funds Fund (Fund 543) to the Department of 66175
Development's Minority Business Bonding Fund (Fund 449) shall 66176
occur, if requested by the Director of Development, only if such 66177
funds are needed for payment of losses arising from the Minority 66178
Business Bonding Program, and only after proceeds of the initial 66179
transfer of \$2,700,000 by the Controlling Board to the Minority 66180
Business Bonding Program has been used for that purpose. Moneys 66181
transferred by the Director of Budget and Management from the 66182
Department of Commerce for this purpose may be moneys in custodial 66183
funds held by the Treasurer of State. If expenditures are required 66184
for payment of losses arising from the Minority Business Bonding 66185
Program, such expenditures shall be made from appropriation item 66186
195-623, Minority Business Bonding Contingency in the Minority 66187
Business Bonding Fund, and such amounts are appropriated. 66188

MINORITY BUSINESS BONDING PROGRAM ADMINISTRATION 66189

Investment earnings of the Minority Business Bonding Fund 66190
(Fund 449) shall be credited to the Minority Business Bonding 66191
Program Administration Fund (Fund 450). 66192

Section 38.16. ECONOMIC DEVELOPMENT FINANCING OPERATING 66193

The foregoing appropriation item 195-625, Economic 66194
Development Financing Operating, shall be used for the operating 66195
expenses of financial assistance programs authorized under Chapter 66196
166. of the Revised Code and under sections 122.43 and 122.45 of 66197
the Revised Code. 66198

UNIVERSAL SERVICE FUND 66199

The foregoing appropriation item 195-659, Universal Service, 66200
shall be used to provide payments to regulated electric utility 66201
companies for low-income customers enrolled in Percentage of 66202
Income Payment Plan (PIPP) electric accounts, to fund targeted 66203
energy efficiency and customer education services to PIPP 66204
customers, and to cover the department's administrative costs 66205
related to the Universal Service Fund Programs. 66206

ENERGY EFFICIENCY REVOLVING LOAN FUND 66207

The foregoing appropriation item 195-660, Energy Efficiency 66208
Revolving Loan, shall be used to provide financial assistance to 66209
customers for eligible energy efficiency projects for residential, 66210
commercial and industrial business, local government, educational 66211
institution, nonprofit, and agriculture customers, and to pay for 66212
the program's administrative costs as provided in the Revised Code 66213
and rules adopted by the Director of Development. 66214

VOLUME CAP ADMINISTRATION 66215

The foregoing appropriation item 195-654, Volume Cap 66216
Administration, shall be used for expenses related to the 66217
administration of the Volume Cap Program. Revenues received by the 66218
Volume Cap Administration Fund (Fund 617) shall consist of 66219
application fees, forfeited deposits, and interest earned from the 66220
custodial account held by the Treasurer of State. 66221

Section 38.17. FACILITIES ESTABLISHMENT FUND 66222

The foregoing appropriation item 195-615, Facilities 66223
Establishment (Fund 037), shall be used for the purposes of the 66224
Facilities Establishment Fund under Chapter 166. of the Revised 66225
Code. 66226

Notwithstanding Chapter 166. of the Revised Code, up to 66227
\$1,800,000 in cash per fiscal year may be transferred from the 66228

Facilities Establishment Fund (Fund 037) to the Economic 66229
Development Financing Operating Fund (Fund 451). The transfer is 66230
subject to Controlling Board approval pursuant to division (B) of 66231
section 166.03 of the Revised Code. 66232

Notwithstanding Chapter 166. of the Revised Code, up to 66233
\$20,475,000 in cash may be transferred during the biennium from 66234
the Facilities Establishment Fund (Fund 037) to the Urban 66235
Redevelopment Loans Fund (Fund 5D2) for the purpose of removing 66236
barriers to urban core redevelopment. The Director of Development 66237
shall develop program guidelines for the transfer and release of 66238
funds, including, but not limited to, the completion of all 66239
appropriate environmental assessments before state assistance is 66240
committed to a project. 66241

Notwithstanding Chapter 166. of the Revised Code, up to 66242
\$5,000,000 per fiscal year in cash may be transferred from the 66243
Facilities Establishment Fund (Fund 037) to the Rural Industrial 66244
Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling 66245
Board approval pursuant to section 166.03 of the Revised Code. 66246

FAMILY FARM LOAN PROGRAM 66247

Notwithstanding Chapter 166. of the Revised Code, up to 66248
\$1,500,000 in each fiscal year shall be transferred from moneys in 66249
the Facilities Establishment Fund (Fund 037) to the Family Farm 66250
Loan Guarantee Fund (Fund 5H1) in the Department of Development. 66251
These moneys shall be used for loan guarantees. The transfer is 66252
subject to Controlling Board approval. 66253

Financial assistance from the Family Farm Loan Guarantee Fund 66254
(Fund 5H1) shall be repaid to Fund 5H1. This fund is established 66255
in accordance with sections 166.031, 901.80, 901.81, 901.82, and 66256
901.83 of the Revised Code. 66257

When the Family Farm Loan Guarantee Fund (Fund 5H1) ceases to 66258
exist, all outstanding balances, all loan repayments, and any 66259

other outstanding obligations shall revert to the Facilities Establishment Fund (Fund 037). 66260
66261

RURAL DEVELOPMENT INITIATIVE FUND 66262

(A)(1) The Rural Development Initiative Fund (Fund 5S8) shall 66263
receive moneys from the Facilities Establishment Fund (Fund 037). 66264
The Director of Development may make grants from the Rural 66265
Development Initiative Fund as specified in division (A)(2) of 66266
this section to eligible applicants in Appalachian counties and in 66267
rural counties in the state that are designated as distressed 66268
pursuant to section 122.25 of the Revised Code. Preference shall 66269
be given to eligible applicants located in Appalachian counties 66270
designated as distressed by the federal Appalachian Regional 66271
Commission. The Rural Development Initiative Fund (Fund 5S8) shall 66272
cease to exist after June 30, 2007. All moneys remaining in the 66273
Fund after that date shall revert to the Facilities Establishment 66274
Fund (Fund 037). 66275

(2) The Director of Development shall make grants from the 66276
Rural Development Initiative Fund (Fund 5S8) only to eligible 66277
applicants who also qualify for and receive funding under the 66278
Rural Industrial Park Loan Program as specified in sections 122.23 66279
to 122.27 of the Revised Code. Eligible applicants shall use the 66280
grants for the purposes specified in section 122.24 of the Revised 66281
Code. All projects supported by grants from the fund are subject 66282
to Chapter 4115. of the Revised Code as specified in division (E) 66283
of section 166.02 of the Revised Code. The Director shall develop 66284
program guidelines for the transfer and release of funds. The 66285
release of grant moneys to an eligible applicant is subject to 66286
Controlling Board approval. 66287

(B) Notwithstanding Chapter 166. of the Revised Code, the 66288
Director of Budget and Management may transfer up to \$5,000,000 66289
per fiscal year in cash on an as needed basis at the request of 66290
the Director of Development from the Facilities Establishment Fund 66291

(Fund 037) to the Rural Development Initiative Fund (Fund 5S8). 66292
The transfer is subject to Controlling Board approval pursuant to 66293
section 166.03 of the Revised Code. 66294

CAPITAL ACCESS LOAN PROGRAM 66295

The foregoing appropriation item 195-628, Capital Access Loan 66296
Program, shall be used for operating, program, and administrative 66297
expenses of the program. Funds of the Capital Access Loan Program 66298
shall be used to assist participating financial institutions in 66299
making program loans to eligible businesses that face barriers in 66300
accessing working capital and obtaining fixed asset financing. 66301

Notwithstanding Chapter 166. of the Revised Code, the 66302
Director of Budget and Management may transfer up to \$3,000,000 66303
per fiscal year in cash on an as needed basis at the request of 66304
the Director of Development from the Facilities Establishment Fund 66305
(Fund 037) to the Capital Access Loan Program Fund (Fund 5S9). The 66306
transfer is subject to Controlling Board approval pursuant to 66307
section 166.03 of the Revised Code. 66308

Section 38.18. CLEAN OHIO OPERATING EXPENSES 66309

The foregoing appropriation item 195-663, Clean Ohio 66310
Operating, shall be used by the Department of Development in 66311
administering sections 122.65 to 122.658 of the Revised Code. 66312

Section 39. OBD OHIO BOARD OF DIETETICS 66313

General Services Fund Group 66314
4K9 860-609 Operating Expenses \$ 334,917 \$ 329,687 66315
TOTAL GSF General Services Fund 66316
Group \$ 334,917 \$ 329,687 66317
TOTAL ALL BUDGET FUND GROUPS \$ 334,917 \$ 329,687 66318

Section 40. EDU DEPARTMENT OF EDUCATION 66320

General Revenue Fund					66321
GRF 200-100 Personal Services	\$	12,211,314	\$	0	66322
GRF 200-320 Maintenance and Equipment	\$	5,332,894	\$	0	66323
GRF 200-405 Primary and Secondary Education Funding	\$	0	\$ 6,709,959,774		66324
GRF 200-408 Public Preschool	\$	19,018,551	\$	0	66325
GRF 200-410 Professional Development	\$	36,185,253	\$	0	66326
GRF 200-411 Family and Children First	\$	3,324,750	\$	0	66327
GRF 200-420 Technical Systems Development	\$	5,703,750	\$	0	66328
GRF 200-421 Alternative Education Programs	\$	16,497,000	\$	0	66329
GRF 200-422 School Management Assistance	\$	1,778,000	\$	0	66330
GRF 200-424 Policy Analysis	\$	592,220	\$	0	66331
GRF 200-425 Tech Prep Consortia Support	\$	2,133,213	\$	0	66332
GRF 200-426 Ohio Educational Computer Network	\$	34,331,741	\$	0	66333
GRF 200-427 Academic Standards	\$	10,200,592	\$	0	66334
GRF 200-431 School Improvement Initiatives	\$	14,013,831	\$	0	66335
GRF 200-432 School Conflict Management	\$	583,010	\$	0	66336
GRF 200-433 Reading/Writing Improvement	\$	21,060,953	\$	0	66337
GRF 200-437 Student Assessment	\$	43,353,391	\$	0	66338
GRF 200-439 Accountability/Report Cards	\$	4,387,500	\$	0	66339
GRF 200-441 American Sign Language	\$	207,717	\$	0	66340

GRF 200-442	Child Care Licensing	\$	1,385,633	\$	0	66341
GRF 200-444	Professional Recruitment	\$	2,186,112	\$	0	66342
GRF 200-445	OhioReads Admin/Volunteer Support	\$	5,178,228	\$	0	66343
GRF 200-446	Education Management Information System	\$	16,646,469	\$	0	66344
GRF 200-447	GED Testing/Adult High School	\$	1,829,106	\$	0	66345
GRF 200-448	Educator Preparation	\$	609,375	\$	0	66346
GRF 200-449	Head Start Plus Start Up	\$	16,000,000	\$	0	66347
GRF 200-452	Teaching Success Commission Initiatives	\$	1,650,000	\$	0	66348
GRF 200-455	Community Schools	\$	4,278,911	\$	0	66349
GRF 200-500	School Finance Equity	\$	13,703,405	\$	0	66350
GRF 200-501	Base Cost Funding	\$	4,429,395,035	\$	0	66351
GRF 200-502	Pupil Transportation	\$	388,939,229	\$	0	66352
GRF 200-503	Bus Purchase Allowance	\$	34,399,921	\$	0	66353
GRF 200-505	School Lunch Match	\$	9,398,025	\$	0	66354
GRF 200-509	Adult Literacy Education	\$	8,774,250	\$	0	66355
GRF 200-511	Auxiliary Services	\$	127,903,356	\$	0	66356
GRF 200-513	Student Intervention Services	\$	35,040,815	\$	0	66357
GRF 200-514	Postsecondary Adult Career-Technical Education	\$	19,919,464	\$	0	66358
GRF 200-520	Disadvantaged Pupil Impact Aid	\$	367,266,738	\$	0	66359
GRF 200-521	Gifted Pupil Program	\$	48,201,031	\$	0	66360
GRF 200-525	Parity Aid	\$	327,289,958	\$	0	66361

GRF 200-532	Nonpublic Administrative Cost Reimbursement	\$ 55,803,103	\$	0	66362
GRF 200-540	Special Education Enhancements	\$ 140,041,130	\$	0	66363
GRF 200-545	Career-Technical Education Enhancements	\$ 21,382,677	\$	0	66364
GRF 200-546	Charge-Off Supplement	\$ 40,276,844	\$	0	66365
GRF 200-558	Emergency Loan Interest Subsidy	\$ 3,022,500	\$	0	66366
GRF 200-566	OhioReads Grants	\$ 27,263,379	\$	0	66367
GRF 200-578	Safe and Supportive Schools	\$ 3,576,348	\$	0	66368
GRF 200-901	Property Tax Allocation - Education	\$ 736,750,000	\$ 726,360,000		66369
GRF 200-906	Tangible Tax Exemption - Education	\$ 70,710,000	\$ 67,710,000		66370
TOTAL GRF	General Revenue Fund	\$ 7,189,736,722	\$ 7,504,029,774		66371
	General Services Fund Group				66372
138 200-606	Computer Services	\$ 7,404,690	\$ 7,635,949		66373
4D1 200-602	Ohio Prevention/Education Resource Center	\$ 347,000	\$ 347,000		66374
4L2 200-681	Teacher Certification and Licensure	\$ 5,038,017	\$ 5,236,517		66375
452 200-638	Miscellaneous Revenue	\$ 500,000	\$ 500,000		66376
5B1 200-651	Child Nutrition Services	\$ 800,000	\$ 800,000		66377
5H3 200-687	School District Solvency Assistance	\$ 18,000,000	\$ 18,000,000		66378
596 200-656	Ohio Career Information System	\$ 516,694	\$ 529,761		66379
TOTAL GSF	General Services				66380

Fund Group		\$	32,606,401	\$	33,049,227	66381	
Federal Special Revenue Fund Group						66382	
3C5	200-661	Early Childhood Education	\$	21,508,746	\$	21,508,746	66383
3D1	200-664	Drug Free Schools	\$	13,169,757	\$	13,347,966	66384
3D2	200-667	Honors Scholarship Program	\$	1,786,500	\$	1,786,500	66385
3H9	200-605	Head Start Collaboration Project	\$	275,000	\$	275,000	66386
3L6	200-617	Federal School Lunch	\$	185,948,186	\$	191,898,528	66387
3L7	200-618	Federal School Breakfast	\$	48,227,431	\$	49,524,254	66388
3L8	200-619	Child/Adult Food Programs	\$	63,577,244	\$	65,293,830	66389
3L9	200-621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701	66390
3M0	200-623	ESEA Title 1A	\$	356,458,504	\$	384,975,184	66391
3M1	200-678	Innovative Education	\$	15,041,997	\$	16,094,937	66392
3M2	200-680	Ind W/Disab Education Act	\$	288,468,284	\$	331,392,575	66393
3S2	200-641	Education Technology	\$	19,682,057	\$	20,469,339	66394
3S6	200-698	Dispute Resolution - Federal	\$	140,000	\$	140,000	66395
3T4	200-613	Public Charter Schools	\$	23,287,500	\$	26,187,113	66396
3Y2	200-688	21st Century Community Learning Centers	\$	17,138,239	\$	18,500,000	66397
3Y4	200-632	Reading First	\$	29,881,256	\$	33,168,194	66398
3Y6	200-635	Improving Teacher Quality	\$	103,686,420	\$	104,100,000	66399
3Y7	200-689	English Language Acquisition	\$	4,872,334	\$	5,505,737	66400
3Z2	200-690	State Assessments	\$	11,894,315	\$	12,489,031	66401
309	200-601	Educationally	\$	22,148,769	\$	22,899,001	66402

		Disadvantaged					
366	200-604	Adult Basic Education	\$	21,369,906	\$	22,223,820	66403
367	200-607	School Food Services	\$	10,767,759	\$	11,144,631	66404
368	200-614	Veterans' Training	\$	626,630	\$	655,587	66405
369	200-616	Career-Tech Education	\$	8,165,672	\$	8,165,672	66406
		Federal Enhancement					
370	200-624	Education of	\$	1,933,910	\$	1,933,910	66407
		Exceptional Children					
374	200-647	Troops to Teachers	\$	2,618,076	\$	2,622,370	66408
		TOTAL FED Federal Special					66409
		Revenue Fund Group	\$	1,320,704,193	\$	1,414,331,626	66410
		State Special Revenue Fund Group					66411
4R7	200-695	Indirect Cost Recovery	\$	5,002,500	\$	5,250,400	66412
4V7	200-633	Interagency Support	\$	800,000	\$	800,000	66413
454	200-610	Guidance and Testing	\$	956,761	\$	956,761	66414
455	200-608	Commodity Foods	\$	11,308,000	\$	11,624,624	66415
5U2	200-685	National Education	\$	200,000	\$	200,000	66416
		Statistics					
5W2	200-663	Head Start Plus/Head	\$	101,200,000	\$	103,184,000	66417
		Start					
598	200-659	Auxiliary Services	\$	1,328,910	\$	1,328,910	66418
		Reimbursement					
620	200-615	Educational Grants	\$	1,000,000	\$	1,000,000	66419
		TOTAL SSR State Special Revenue					66420
		Fund Group	\$	121,796,171	\$	124,344,695	66421
		Lottery Profits Education Fund Group					66422
017	200-612	Base Cost Funding	\$	606,123,500	\$	606,195,300	66423
017	200-682	Lease Rental Payment	\$	31,776,500	\$	31,704,700	66424
		Reimbursement					
		TOTAL LPE Lottery Profits					66425
		Education Fund Group	\$	637,900,000	\$	637,900,000	66426
		Revenue Distribution Fund Group					66427

053 200-900 School District	\$ 115,911,593	\$ 115,911,593	66428
Property Tax			
Replacement			
TOTAL RDF Revenue Distribution			66429
Fund Group	\$ 115,911,593	\$ 115,911,593	66430
TOTAL ALL BUDGET FUND GROUPS	\$ 9,418,655,080	\$ 9,829,566,915	66431

Section 40.01. PERSONAL SERVICES 66433

Of the foregoing appropriation item 200-100, Personal 66434
Services, \$1,630,181 in fiscal year 2004 shall be used by the 66435
Department of Education to provide vocational administration 66436
matching funds pursuant to 20 U.S.C. 2311. 66437

MAINTENANCE AND EQUIPMENT 66438

Of the foregoing appropriation item 200-320, Maintenance and 66439
Equipment, up to \$25,000 may be expended in fiscal year 2004 for 66440
State Board of Education out-of-state travel. 66441

Of the foregoing appropriation item 200-320, Maintenance and 66442
Equipment, \$692,014 in fiscal year 2004 shall be used by the 66443
Department of Education to provide vocational administration 66444
matching funds pursuant to 20 U.S.C. 2311. 66445

Section 40.02. PUBLIC PRESCHOOL 66446

The Department of Education shall distribute the foregoing 66447
appropriation item 200-408, Public Preschool, to pay the costs of 66448
comprehensive preschool programs. As used in this section, "school 66449
district" means a city, local, exempted village, or joint 66450
vocational school district, or an educational service center. 66451

(A) In fiscal year 2004, up to two per cent of the total 66452
appropriation may be used by the department for program support 66453
and technical assistance; developing program capacity; and 66454
assisting programs with facilities planning, construction, 66455

renovation, or lease agreements in conjunction with the Community Development Finance Fund (CFFF). The Department shall distribute the remainder of the appropriation in fiscal year 2004 to serve children from families earning not more than 185 per cent of the federal poverty guidelines.

(B) The department shall provide an annual report to the Governor, the Speaker of the House of Representatives, the President of the Senate, the State Board of Education, Head Start grantees, and other interested parties. The report shall include:

(1) The number and per cent of eligible children by county and by school district;

(2) The amount of state funds allocated for continuation per school district;

(3) The amount of state funds received for continuation per school district;

(4) A summary of program performance on the state critical performance indicators in the public preschool program;

(5) A summary of developmental progress of children participating in the state-funded public preschool program;

(6) Any other data reflecting the performance of public preschool programs that the department considers pertinent.

(C) For purposes of this section, "eligible child" means a child who is at least three years of age, is not eligible for kindergarten, and whose family earns not more than 185 per cent of the federal poverty guidelines.

(D) The department may reallocate unobligated or unspent money to participating school districts for purposes of program expansion, improvement, or special projects to promote quality and innovation.

(E) Costs for developing and administering a preschool

program may not exceed fifteen per cent of the total approved 66486
costs of the program. 66487

All recipients of funds shall maintain such fiscal control 66488
and accounting procedures as may be necessary to ensure the 66489
disbursement of, and accounting for, these funds. The control of 66490
funds provided in this program, and title to property obtained 66491
therefrom, shall be under the authority of the approved recipient 66492
for purposes provided in the program unless, as described in 66493
division (J) of this section, a preschool program waives its right 66494
for funding or a program's funding is eliminated or reduced due to 66495
its inability to meet financial or program performance standards. 66496
The approved recipient shall administer and use such property and 66497
funds for the purposes specified. 66498

(F) The department shall prescribe target levels for critical 66499
performance indicators for the purpose of assessing public 66500
preschool programs. On-site reviews and follow-up visits shall be 66501
based on progress in meeting the prescribed target levels. 66502

(G) The Department may examine a recipient's financial and 66503
program records. If the financial practices of the program are not 66504
in accordance with standard accounting principles or do not meet 66505
financial standards outlined under division (E) of this section, 66506
or if the program fails to substantially meet the Head Start 66507
performance standards or exhibits below average performance as 66508
measured against the performance indicators outlined in division 66509
(F) of this section, the preschool program shall propose and 66510
implement a corrective action plan that has been approved by the 66511
Department. The approved corrective action plan shall be signed by 66512
the school district board of education and the appropriate grantee 66513
official. The corrective action plan shall include a schedule for 66514
monitoring by the Department. Such monitoring may include monthly 66515
reports, inspections, a timeline for correction of deficiencies, 66516
and technical assistance to be provided by the Department or 66517

obtained by the public preschool program. The Department may 66518
withhold funding pending corrective action. If a public preschool 66519
program fails to satisfactorily complete a corrective action plan, 66520
the Department may either deny expansion funding to the program or 66521
withdraw all or part of the public preschool funding from the 66522
agency and establish a new state-funded agency through a 66523
competitive bidding process established by the Department. 66524

(H) The department shall require public preschool programs to 66525
document child progress, using research-based indicators as 66526
prescribed by the department, and report results annually. The 66527
department shall determine the dates for documenting and 66528
reporting. 66529

(I) Each school district shall develop a sliding fee scale 66530
based on family incomes in the district and shall charge families 66531
who earn more than the federal poverty guidelines for preschool. 66532

(J) If a public preschool program voluntarily waives its 66533
right for funding, or has its funding eliminated for not meeting 66534
financial standards or program performance standards, the grantee 66535
and delegate shall transfer control of title to property, 66536
equipment, and remaining supplies obtained through the program to 66537
designated grantees and return any unexpended funds to the 66538
Department along with any reports prescribed by the Department. 66539
The funding made available from a program that waives its right 66540
for funding or has its funding eliminated or reduced may be used 66541
by the Department for new grant awards or expansion grants. The 66542
Department may award new grants or expansion grants to eligible 66543
providers who apply. The eligible providers who apply must do so 66544
in accordance with the competitive bidding process established by 66545
the Department. 66546

Section 40.03. PROFESSIONAL DEVELOPMENT 66547

Of the foregoing appropriation item 200-410, Professional 66548

Development, \$5,368,357 in fiscal year 2004 shall be used by the 66549
Department of Education to develop a statewide comprehensive 66550
system of twelve professional development centers that support 66551
local educators' ability to foster academic achievement in the 66552
students they serve. The centers shall include training teachers 66553
on site-based management concepts to encourage teachers to become 66554
involved in the management of their schools. 66555

Of the foregoing appropriation item 200-410, Professional 66556
Development, \$7,229,625 in fiscal year 2004 shall be used by the 66557
Department of Education to pay the application fee for teachers 66558
from public and chartered nonpublic schools applying to the 66559
National Board for Professional Teaching Standards for 66560
professional teaching certificates or licenses that the board 66561
offers and to provide grants in fiscal year 2004 to recognize and 66562
reward teachers who become certified by the board pursuant to 66563
section 3319.55 of the Revised Code, and up to \$300,000 in fiscal 66564
year 2004 of this set-aside may be used by the Department to pay 66565
for costs associated with activities to support candidates through 66566
the application and certification process. 66567

These moneys shall be used to pay up to the first 500 66568
applications in fiscal year 2004 received by the Department. Each 66569
prospective applicant for certification or licensure shall submit 66570
an application to the Department of Education. When the Department 66571
has collected a group of applications, but not later than 30 days 66572
after receipt of the first application in a group, it shall send 66573
the applications to the National Board for Professional Teaching 66574
Standards along with a check to cover the cost of the application 66575
fee for all applicants in that group. 66576

Of the foregoing appropriation item 200-410, Professional 66577
Development, up to \$19,442,358 in fiscal year 2004 shall be 66578
allocated for entry year programs. These funds shall be used to 66579
support mentoring services and performance assessments of 66580

beginning teachers, including chartered nonpublic beginning 66581
teachers. 66582

Of the foregoing appropriation item 200-410, Professional 66583
Development, up to \$546,000 in fiscal year 2004 shall be used to 66584
continue Ohio leadership academies to develop and train 66585
superintendents in new leadership and management practices to 66586
support high performance schools. This training shall be 66587
coordinated with other locally administered leadership programs. 66588

Of the foregoing appropriation item 200-410, Professional 66589
Development, up to \$676,260 in fiscal year 2004 shall be used to 66590
support the Ohio Principal's Leadership Academy that will serve 66591
principals and their staff teams. An advisory panel comprised of 66592
national business and education experts shall advise the 66593
Department of Education on content and delivery of curriculum and 66594
instruction. 66595

Of the foregoing appropriation item 200-410, Professional 66596
Development, up to \$1,840,000 in fiscal year 2004 shall be used to 66597
fund an entry year program for principals, including for chartered 66598
nonpublic principals. 66599

Of the foregoing appropriation item 200-410, Professional 66600
Development, up to \$438,750 in fiscal year 2004 shall be used by 66601
the Rural Appalachian Initiative to create professional 66602
development academies for teachers, principals, and 66603
superintendents in the Appalachian region. No funding shall be 66604
released prior to the Department of Education receiving a 66605
satisfactory report of the activities conducted by these 66606
professional development academies during the previous year. 66607

Of the foregoing appropriation item 200-410, Professional 66608
Development, up to \$243,750 in fiscal year 2004 shall be used to 66609
support a Teacher Recognition Program. Funds awarded shall be used 66610
to recognize exemplary performance and support the professional 66611

development of educators across the educator life-cycle continuum, 66612
and may also be used to support the implementation of an 66613
educator-in-residence program. 66614

Of the foregoing appropriation item 200-410, Professional 66615
Development, up to \$65,813 in fiscal year 2004 shall be used to 66616
support the Ohio University Leadership Program. 66617

Of the foregoing appropriation item 200-410, Professional 66618
Development, up to \$146,250 in fiscal year 2004 shall be used to 66619
provide training to school board members, treasurers, and school 66620
business officials. 66621

Of the foregoing appropriation item 200-410, Professional 66622
Development, up to \$188,090 in fiscal year 2004 shall be used to 66623
provide grants for districts to develop local 66624
knowledge/skills-based compensation systems. 66625

Section 40.04. TECHNICAL SYSTEMS DEVELOPMENT 66626

The foregoing appropriation item 200-420, Technical Systems 66627
Development, shall be used to support the development and 66628
implementation of information technology solutions designed to 66629
improve the performance and customer service of the Department of 66630
Education. Funds may be used for personnel, maintenance, and 66631
equipment costs related to the development and implementation of 66632
these technical system projects. Implementation of these systems 66633
shall allow the Department to provide greater levels of assistance 66634
to school districts and to provide more timely information to the 66635
public, including school districts, administrators, and 66636
legislators. 66637

ALTERNATIVE EDUCATION PROGRAMS 66638

There is hereby created the Alternative Education Advisory 66639
Council, which shall consist of one representative from each of 66640
the following agencies: the Ohio Department of Education; the 66641

Department of Youth Services; the Ohio Department of Alcohol and 66642
Drug Addiction Services; the Department of Mental Health; the 66643
Office of the Governor or, at the Governor's discretion, the 66644
Office of the Lieutenant Governor; the Office of the Attorney 66645
General; and the Office of the Auditor of State. 66646

Of the foregoing appropriation item 200-421, Alternative 66647
Education Programs, not less than \$7,897,500 in fiscal year 2004 66648
shall be used for the renewal of successful implementation grants 66649
and for competitive matching grants to the 21 urban school 66650
districts as defined in division (O) of section 3317.02 of the 66651
Revised Code as it existed prior to July 1, 1998, and not less 66652
than \$7,863,047 in fiscal year 2004 shall be used for the renewal 66653
of successful implementation of grants and for competitive 66654
matching grants to rural and suburban school districts for 66655
alternative educational programs for existing and new at-risk and 66656
delinquent youth. Programs shall be focused on youth in one or 66657
more of the following categories: those who have been expelled or 66658
suspended, those who have dropped out of school or who are at risk 66659
of dropping out of school, those who are habitually truant or 66660
disruptive, or those on probation or on parole from a Department 66661
of Youth Services facility. Grants shall be awarded according to 66662
the criteria established by the Alternative Education Advisory 66663
Council in 1999. Grants shall be awarded only to programs where 66664
the grant would not serve as the program's primary source of 66665
funding. These grants shall be administered by the Department of 66666
Education. 66667

The Department of Education may waive compliance with any 66668
minimum education standard established under section 3301.07 of 66669
the Revised Code for any alternative school that receives a grant 66670
under this section on the grounds that the waiver will enable the 66671
program to more effectively educate students enrolled in the 66672
alternative school. 66673

Of the foregoing appropriation item 200-421, Alternative Education Programs, up to \$449,235 in fiscal year 2004 may be used for program administration, monitoring, technical assistance, support, research, and evaluation. Any unexpended balance may be used to provide additional matching grants to urban, suburban, or rural school districts as outlined above.

Of the foregoing appropriation item 200-421, Alternative Education Programs, \$287,218 in fiscal year 2004 shall be used to contract with the Center for Learning Excellence at The Ohio State University to provide technical support for the project and the completion of formative and summative evaluation of the grants.

SCHOOL MANAGEMENT ASSISTANCE

Of the foregoing appropriation item 200-422, School Management Assistance, \$351,000 in fiscal year 2004 shall be used by the Auditor of State for expenses incurred in the Auditor of State's role relating to fiscal caution activities as defined in Chapter 3316. of the Revised Code. Expenses include duties related to the completion of performance audits for school districts that the Superintendent of Public Instruction determines are employing fiscal practices or experiencing budgetary conditions that could produce a state of fiscal watch or fiscal emergency.

The remainder of foregoing appropriation item 200-422, School Management Assistance, shall be used by the Department of Education to provide fiscal technical assistance and inservice education for school district management personnel and to administer, monitor, and implement the fiscal watch and fiscal emergency provisions under Chapter 3316. of the Revised Code.

POLICY ANALYSIS

The foregoing appropriation item 200-424, Policy Analysis, shall be used by the Department of Education to support a system of administrative, statistical, and legislative education

information to be used for policy analysis. Staff supported by 66705
this appropriation shall administer the development of reports, 66706
analyses, and briefings to inform education policymakers of 66707
current trends in education practice, efficient and effective use 66708
of resources, and evaluation of programs to improve education 66709
results. The database shall be kept current at all times. These 66710
research efforts shall be used to supply information and analysis 66711
of data to the General Assembly and other state policymakers, 66712
including the Office of Budget and Management and the Legislative 66713
Service Commission. 66714

The Department of Education may use funding from this 66715
appropriation item to purchase or contract for the development of 66716
software systems or contract for policy studies that will assist 66717
in the provision and analysis of policy-related information. 66718
Funding from this appropriation item also may be used to monitor 66719
and enhance quality assurance for research-based policy analysis 66720
and program evaluation to enhance the effective use of education 66721
information to inform education policymakers. 66722

TECH PREP CONSORTIA SUPPORT 66723

The foregoing appropriation item 200-425, Tech Prep Consortia 66724
Support, shall be used by the Department of Education to support 66725
state-level activities designed to support, promote, and expand 66726
tech prep programs. Use of these funds shall include, but not be 66727
limited to, administration of grants, program evaluation, 66728
professional development, curriculum development, assessment 66729
development, program promotion, communications, and statewide 66730
coordination of tech prep consortia. 66731

OHIO EDUCATIONAL COMPUTER NETWORK 66732

The foregoing appropriation item 200-426, Ohio Educational 66733
Computer Network, shall be used by the Department of Education to 66734
maintain a system of information technology throughout Ohio and to 66735

provide technical assistance for such a system in support of the 66736
State Education Technology Plan pursuant to section 3301.07 of the 66737
Revised Code. 66738

Of the foregoing appropriation item 200-426, Ohio Educational 66739
Computer Network, up to \$18,592,763 in fiscal year 2004 shall be 66740
used by the Department of Education to support connection of all 66741
public school buildings to the state's education network, to each 66742
other, and to the Internet. In fiscal year 2004 the Department of 66743
Education shall use these funds to assist data acquisition sites 66744
or school districts with the operational costs associated with 66745
this connectivity. The Department of Education shall develop a 66746
formula and guidelines for the distribution of these funds to the 66747
data acquisition sites or individual school districts. As used in 66748
this section, "public school building" means a school building of 66749
any city, local, exempted village, or joint vocational school 66750
district, or any community school established under Chapter 3314. 66751
of the Revised Code, or any educational service center building 66752
used for instructional purposes, or the Ohio School for the Deaf 66753
and the Ohio School for the Blind, or high schools chartered by 66754
the Ohio Department of Youth Services and high schools operated by 66755
Ohio Department of Rehabilitation and Corrections' Ohio Central 66756
School System. 66757

Of the foregoing appropriation item 200-426, Ohio Educational 66758
Computer Network, up to \$1,884,355 in fiscal year 2004 shall be 66759
used for the Union Catalog and InfOhio Network. 66760

The Department of Education shall use up to \$3,412,500 in 66761
fiscal year 2004 to assist designated data acquisition sites with 66762
operational costs associated with the increased use of the state's 66763
education network by chartered nonpublic schools. The Department 66764
of Education shall develop a formula and guidelines for 66765
distribution of these funds to designated data acquisition sites. 66766

The remainder in fiscal year 2004 of appropriation item 66767

200-426, Ohio Educational Computer Network, shall be used to 66768
support development, maintenance, and operation of a network of 66769
uniform and compatible computer-based information and 66770
instructional systems. The technical assistance shall include, but 66771
not be restricted to, development and maintenance of adequate 66772
computer software systems to support network activities. Program 66773
funds may be used, through a formula and guidelines devised by the 66774
department, to subsidize the activities of designated data 66775
acquisition sites, as defined by State Board of Education rules, 66776
to provide school districts and chartered nonpublic schools with 66777
computer-based student and teacher instructional and 66778
administrative information services, including approved 66779
computerized financial accounting, and to ensure the effective 66780
operation of local automated administrative and instructional 66781
systems. To broaden the scope of the use of technology for 66782
education, the Department may use up to \$223,762 in fiscal year 66783
2004 to coordinate the activities of the computer network with 66784
other agencies funded by the department or the state. In order to 66785
improve the efficiency of network activities, the department and 66786
data acquisition sites may jointly purchase equipment, materials, 66787
and services from funds provided under this appropriation for use 66788
by the network and, when considered practical by the department, 66789
may utilize the services of appropriate state purchasing agencies. 66790

ACADEMIC STANDARDS 66791

Of the foregoing appropriation item 200-427, Academic 66792
Standards, up to \$731,250 in fiscal year 2004 shall be used to 66793
provide funds to school districts that have one or more teachers 66794
participating in the teachers-on-loan program. 66795

The remainder of appropriation item 200-427, Academic 66796
Standards, shall be used by the Department of Education to develop 66797
and disseminate academic content standards. These funds shall be 66798
used to develop academic content standards and curriculum models 66799

and to fund communication of expectations to teachers, school 66800
districts, parents, and communities. 66801

Section 40.05. SCHOOL IMPROVEMENT INITIATIVES 66802

Of the foregoing appropriation item 200-431, School 66803
Improvement Initiatives, \$10,505,625 in fiscal year 2004 shall be 66804
used to provide technical assistance to school districts that are 66805
declared to be in a state of academic watch or academic emergency 66806
under section 3302.03 of the Revised Code to develop their 66807
continuous improvement plans as required in section 3302.04 of the 66808
Revised Code and to provide technical assistance to school 66809
buildings not meeting new federal accountability measures. 66810

Of the foregoing appropriation item 200-431, School 66811
Improvement Initiatives, up to \$138,206 in fiscal year 2004 shall 66812
be used to support a teacher-in-residence at the Governor's office 66813
and related support staff, travel expenses, and administrative 66814
overhead. 66815

Of the foregoing appropriation item 200-431, School 66816
Improvement Initiatives, up to \$250,000 in fiscal year 2004 shall 66817
be used to reduce the dropout rate by addressing the academic and 66818
social problems of inner-city students through Project GRAD. 66819

Of the foregoing appropriation item 200-431, School 66820
Improvement Initiatives, \$3,120,000 in fiscal year 2004 shall be 66821
used to provide intensive summer professional development for 66822
mathematics teachers and to deploy mathematics specialists into 66823
low performing schools. The plan for the expenditure of these 66824
funds shall be approved by the Math Rules Advisory Council. 66825

SCHOOL CONFLICT MANAGEMENT 66826

The foregoing appropriation item 200-432, School Conflict 66827
Management, shall be used by the Department of Education for the 66828
purpose of providing dispute resolution and conflict management 66829

training, consultation, and materials for school districts, and 66830
for the purpose of providing competitive school conflict 66831
management grants to school districts. 66832

READING/WRITING IMPROVEMENT 66833

Of the foregoing appropriation item 200-433, Reading/Writing 66834
Improvement, up to \$12,675,000 in fiscal year 2004 shall be used 66835
for professional development in literacy for classroom teachers, 66836
administrators, and literacy specialists. 66837

Of the foregoing appropriation item 200-433, Reading/Writing 66838
Improvement, up to \$322,689 in fiscal year 2004 shall be used to 66839
assess a sample number of center-based, early literacy education 66840
programs using the Early Language and Literacy Classroom 66841
Observation Instrument. The instrument shall be used to determine 66842
baseline data regarding literacy experiences for young children 66843
and to provide critical information for continuous improvement 66844
planning. 66845

The remainder of appropriation item 200-433, Reading/Writing 66846
Improvement, shall be used to support standards-based classroom 66847
reading and writing instruction and reading intervention and the 66848
design/development of standards-based literacy curriculum 66849
materials; to support literacy professional development 66850
partnerships between the Department of Education, higher education 66851
institutions, the literacy specialists project, the Ohio 66852
principals' literacy network, regional literacy teams, literacy 66853
networks, and school districts. 66854

STUDENT ASSESSMENT 66855

The foregoing appropriation item 200-437, Student Assessment, 66856
shall be used to develop, field test, print, distribute, score, 66857
and report results from the tests required under sections 66858
3301.0710 and 3301.0711 of the Revised Code and for similar 66859
purposes as required by section 3301.27 of the Revised Code. 66860

ACCOUNTABILITY/REPORT CARDS 66861

The foregoing appropriation item 200-439, 66862
Accountability/Report Cards, shall be used for the development and 66863
distribution of school report cards pursuant to section 3302.03 of 66864
the Revised Code. 66865

AMERICAN SIGN LANGUAGE 66866

Of the foregoing appropriation item 200-441, American Sign 66867
Language, up to \$136,943 in fiscal year 2004 shall be used to 66868
implement pilot projects for the integration of American Sign 66869
Language deaf language into the kindergarten through twelfth-grade 66870
curriculum. 66871

The remainder of the appropriation shall be used by the 66872
Department of Education to provide supervision and consultation to 66873
school districts in dealing with parents of children who are deaf 66874
or hard of hearing, in integrating American Sign Language as a 66875
foreign language, and in obtaining interpreters and improving 66876
their skills. 66877

CHILD CARE LICENSING 66878

The foregoing appropriation item 200-442, Child Care 66879
Licensing, shall be used by the Department of Education to license 66880
and to inspect preschool and school-age child care programs in 66881
accordance with sections 3301.52 to 3301.59 of the Revised Code. 66882

PROFESSIONAL RECRUITMENT 66883

Of the foregoing appropriation item 200-444, Professional 66884
Recruitment, \$1,163,565 in fiscal year 2004 shall be used by the 66885
Department of Education to establish programs targeted at 66886
recruiting underrepresented populations into the teaching 66887
profession. The recruitment programs shall include, but not be 66888
limited to, alternative teacher licensure or certification 66889
programs emphasizing the recruitment of highly qualified minority 66890

candidates into teaching, including emphasizing the recruitment of 66891
highly qualified minority candidates into teaching positions in 66892
schools that have a high percentage of minority students. The 66893
recruitment programs also shall target recruiting qualified 66894
candidates available as a result of downsizing of the military and 66895
business sectors. Funding also shall be targeted to statewide, 66896
regional, and local programs that are competitively selected as 66897
promising programs demonstrating the potential of significantly 66898
increasing Ohio's minority teaching force. 66899

Of the foregoing appropriation item 200-444, Professional 66900
Recruitment, up to \$622,414 in fiscal year 2004 shall be used to 66901
target individuals who are seeking a second career or who are in 66902
mid-career changes to enter the teaching profession by supporting 66903
collaborative activities between higher education institutions and 66904
school districts. 66905

The remainder of appropriation item 200-444, Professional 66906
Recruitment, shall be used by the Department of Education for 66907
recruitment programs targeting special needs areas: recruiting 66908
prospective mathematics and science teachers, recruiting special 66909
educators, recruiting principals, developing and maintaining a 66910
web-based placement bureau, developing supply/demand reports, and 66911
implementing a pre-collegiate program to target future teachers. 66912

OHIOREADS ADMIN/VOLUNTEER SUPPORT 66913

The foregoing appropriation item 200-445, OhioReads 66914
Admin/Volunteer Support, may be allocated by the OhioReads Office 66915
in the Department of Education at the direction of the OhioReads 66916
Council for volunteer coordinators in public school buildings, to 66917
educational service centers for costs associated with volunteer 66918
coordination, for background checks for volunteers, to evaluate 66919
the OhioReads Program, and for operating expenses associated with 66920
administering the program. 66921

Section 40.06. EDUCATION MANAGEMENT INFORMATION SYSTEM 66922

The foregoing appropriation item 200-446, Education 66923
Management Information System, shall be used by the Department of 66924
Education to improve the Education Management Information System 66925
(EMIS). 66926

Of the foregoing appropriation item 200-446, Education 66927
Management Information System, up to \$1,295,857 in fiscal year 66928
2004 shall be distributed to designated data acquisition sites for 66929
costs relating to processing, storing, and transferring data for 66930
the effective operation of the EMIS. These costs may include, but 66931
are not limited to, personnel, hardware, software development, 66932
communications connectivity, professional development, and support 66933
services, and to provide services to participate in the State 66934
Education Technology Plan pursuant to section 3301.07 of the 66935
Revised Code. 66936

Of the foregoing appropriation item 200-446, Education 66937
Management Information System, up to \$8,055,189 in fiscal year 66938
2004 shall be distributed on a per-pupil basis to school 66939
districts, community schools established under Chapter 3314. of 66940
the Revised Code, education service centers, joint vocational 66941
school districts, and any other education entity that reports data 66942
through EMIS. From this funding, each school district or community 66943
school established under Chapter 3314. of the Revised Code with 66944
enrollment greater than 100 students and each vocational school 66945
district shall receive a minimum of \$5,000 in fiscal year 2004. 66946
Each school district or community school established under Chapter 66947
3314. of the Revised Code with enrollment between one and one 66948
hundred and each education service center and each county board of 66949
MR/DD that submits data through EMIS shall receive \$3,000 in 66950
fiscal year 2004. This subsidy shall be used for costs relating to 66951
reporting, processing, storing, transferring, and exchanging data 66952

necessary to meet requirements of the Department of Education's 66953
data system. 66954

GED TESTING/ADULT HIGH SCHOOL 66955

The foregoing appropriation item 200-447, GED Testing/Adult 66956
High School, shall be used to provide General Educational 66957
Development (GED) testing at no cost to applicants, pursuant to 66958
rules adopted by the State Board of Education. The Department of 66959
Education shall reimburse school districts and community schools, 66960
created in accordance with Chapter 3314. of the Revised Code, for 66961
a portion of the costs incurred in providing summer instructional 66962
or intervention services to students who have not graduated due to 66963
their inability to pass one or more parts of the state's ninth 66964
grade proficiency test. School districts shall also provide such 66965
services to students who are residents of the district pursuant to 66966
section 3313.64 of the Revised Code, but who are enrolled in 66967
chartered, nonpublic schools. The services shall be provided in 66968
the public school, in nonpublic schools, in public centers, or in 66969
mobile units located on or off the nonpublic school premises. No 66970
school district shall provide summer instructional or intervention 66971
services to nonpublic school students as authorized by this 66972
section unless such services are available to students attending 66973
the public schools within the district. No school district shall 66974
provide services for use in religious courses, devotional 66975
exercises, religious training, or any other religious activity. 66976
Chartered, nonpublic schools shall pay for any unreimbursed costs 66977
incurred by school districts for providing summer instruction or 66978
intervention services to students enrolled in chartered, nonpublic 66979
schools. School districts may provide these services to students 66980
directly or contract with postsecondary or nonprofit 66981
community-based institutions in providing instruction. The 66982
appropriation also shall be used for state reimbursement to school 66983
districts for adult high school continuing education programs 66984

pursuant to section 3313.531 of the Revised Code or for costs 66985
associated with awarding adult high school diplomas under section 66986
3313.611 of the Revised Code. 66987

EDUCATOR PREPARATION 66988

Of the foregoing appropriation item 200-448, Educator 66989
Preparation, \$146,250 in fiscal year 2004 shall be used by the 66990
Department of Education for collaboration with the interstate new 66991
teacher assessment and support consortium (INTASC) to develop 66992
standards for teacher preparation and portfolio assessments for 66993
licensure. 66994

Of the foregoing appropriation item 200-448, Educator 66995
Preparation, \$438,750 in fiscal year 2004 shall be used to 66996
establish new teacher education/district partnerships that will 66997
develop professional development schools within districts based on 66998
standards established by the National Council for Accreditation of 66999
Teacher Education. 67000

Of the foregoing appropriation item 200-448, Educator 67001
Preparation, up to \$24,375 in fiscal year 2004 shall be used by 67002
the Ohio Teacher Education and Certification Commission to carry 67003
out the responsibilities of the 21-member Ohio Teacher Education 67004
and Certification Advisory Commission. The advisory commission is 67005
charged by the State Board of Education with considering all 67006
matters related to educator preparation and licensure, including 67007
standards for educator preparation and licensure, approval of 67008
institutions and programs, and recommending decisions to the State 67009
Board of Education. 67010

TITLE IV-A HEAD START PLUS START UP 67011

The foregoing appropriation item 200-449, Head Start Plus 67012
Start Up, shall be used to provide grants to providers of Title 67013
IV-A Head Start Plus/Title IV-A Head Start services for seed money 67014
for the provision of services to children eligible for TANF 67015

services. Eligibility shall be determined in accordance with rules 67016
adopted by the Department of Job and Family Services. The amount 67017
of each grant shall be determined by the Department of Education. 67018

TEACHING SUCCESS COMMISSION INITIATIVES 67019

The foregoing appropriation item 200-452, Teaching Success 67020
Commission Initiatives, shall be used by the Department of 67021
Education to support initiatives recommended by the Governor's 67022
Commission on Teaching Success. 67023

COMMUNITY SCHOOLS 67024

Of the foregoing appropriation item 200-455, Community 67025
Schools, up to \$1,558,661 in fiscal year 2004 may be used by the 67026
Office of School Options in the Department of Education for 67027
additional services and responsibilities under section 3314.11 of 67028
the Revised Code. 67029

The remaining appropriation may be used by the Department of 67030
Education to make grants of up to \$50,000 to each proposing group 67031
with a preliminary agreement obtained under division (C)(2) of 67032
section 3314.02 of the Revised Code in order to defray planning 67033
and initial start-up costs. In the first year of operation of a 67034
community school, the Department of Education may make a grant of 67035
not more than \$100,000 to the governing authority of the school to 67036
partially defray additional start-up costs. The amount of the 67037
grant shall be based on a thorough examination of the needs of the 67038
community school. The Department of Education shall not utilize 67039
moneys received under this section for any other purpose other 67040
than those specified under this section. 67041

A community school awarded start-up grants from appropriation 67042
item 200-613, Public Charter Schools (Fund 3T4), shall not be 67043
eligible for grants under this section. 67044

Section 40.07. SCHOOL FINANCE EQUITY 67045

The foregoing appropriation item 200-500, School Finance Equity, shall be distributed in fiscal year 2004 to school districts based on the formula specified in section 3317.0213 of the Revised Code.

Section 40.08. BASE COST FUNDING

The foregoing appropriation item 200-501, Base Cost Funding, includes \$90,000,000 in fiscal year 2004 for the state education aid offset due to the change in public utility valuation as a result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd General Assembly. This amount represents the total state education aid offset due to the valuation change for school districts and joint vocational school districts from all relevant appropriation line item sources. If it is determined that the state education aid offset is more than \$90,000,000, the Controlling Board may increase the appropriation for appropriation item 200-501, Base Cost Funding, by the difference amount if presented with such a request from the Department of Education. The appropriation increase, if any, is hereby appropriated. If it is determined that the state education aid offset is less than \$90,000,000, the Director of Budget and Management shall then reduce the appropriation for appropriation item 200-501, Base Cost Funding, by the difference amount and notify the Controlling Board of this action. The appropriation decrease determined by the Director of Budget and Management, if any, is hereby approved, and appropriations are hereby reduced by the amount determined.

Of the foregoing appropriation item 200-501, Base Cost Funding, up to \$425,000 shall be expended in fiscal year 2004 for court payments pursuant to section 2151.357 of the Revised Code; an amount shall be available in fiscal year 2004 for the cost of the reappraisal guarantee pursuant to section 3317.04 of the Revised Code; an amount shall be available in fiscal year 2004 to

fund up to 225 full-time equivalent approved GRADS teacher grants 67077
pursuant to division (R) of section 3317.024 of the Revised Code; 67078
an amount shall be available in fiscal year 2004 to make payments 67079
to school districts pursuant to division (A)(2) of section 67080
3317.022 of the Revised Code; an amount shall be available in 67081
fiscal year 2004 to make payments to school districts pursuant to 67082
division (F) of section 3317.022 of the Revised Code; an amount 67083
shall be available in fiscal year 2004 to make payments to school 67084
districts pursuant to division (C) of section 3317.0212 of the 67085
Revised Code; and up to \$15,000,000 in fiscal year 2004 shall be 67086
reserved for payments pursuant to sections 3317.026, 3317.027, and 67087
3317.028 of the Revised Code except that the Controlling Board may 67088
increase the \$15,000,000 amount if presented with such a request 67089
from the Department of Education. Of the foregoing appropriation 67090
item 200-501, Base Cost Funding, up to \$15,000,000 in fiscal year 67091
2004 shall be used to provide additional state aid to school 67092
districts for special education students pursuant to division 67093
(C)(3) of section 3317.022 of the Revised Code; up to \$2,000,000 67094
in fiscal year 2004 shall be reserved for Youth Services tuition 67095
payments pursuant to section 3317.024 of the Revised Code; and up 67096
to \$52,000,000 in fiscal year 2004 shall be reserved to fund the 67097
state reimbursement of educational service centers pursuant to 67098
section 3317.11 of the Revised Code. Up to \$335,735,930 shall be 67099
available in fiscal year 2004 for special education weighted 67100
funding pursuant to division (C)(1) of section 3317.022 and 67101
division (D)(1) of section 3317.16 of the Revised Code. 67102

Of the foregoing appropriation item 200-501, Base Cost 67103
Funding, up to \$1,000,000 in fiscal year 2004 shall be used by the 67104
Department of Education for a pilot program to pay for educational 67105
services for youth who have been assigned by a juvenile court or 67106
other authorized agency to any of the facilities described in 67107
division (A) of the section titled "Private Treatment Facility 67108
Pilot Project." 67109

The remaining portion of appropriation item 200-501, Base Cost Funding, shall be expended in fiscal year 2004 for the public schools of city, local, exempted village, and joint vocational school districts, including base cost funding, special education speech service enhancement funding, career-technical education weight funding, career-technical education associated service funding, guarantee funding, and teacher training and experience funding pursuant to sections 3317.022, 3317.023, 3317.0212, and 3317.16 of the Revised Code.

Appropriation items 200-500, School Finance Equity, 200-501, Base Cost Funding, 200-502, Pupil Transportation, 200-520, Disadvantaged Pupil Impact Aid, 200-521, Gifted Pupil Program, 200-525, Parity Aid, and 200-546, Charge-Off Supplement, other than specific set-asides, are collectively used in fiscal year 2004 to pay state formula aid obligations for school districts and joint vocational school districts pursuant to Chapter 3317. of the Revised Code. The first priority of these appropriation items, with the exception of specific set-asides, is to fund state formula aid obligations under Chapter 3317. of the Revised Code. It may be necessary to reallocate funds among these appropriation items in order to meet state formula aid obligations. If it is determined that it is necessary to transfer funds among these appropriation items to meet state formula aid obligations, the Department of Education shall seek approval from the Controlling Board to transfer funds among these appropriation items.

Section 40.09. PUPIL TRANSPORTATION

Of the foregoing appropriation item 200-502, Pupil Transportation, up to \$822,400 in fiscal year 2004 may be used by the Department of Education for training prospective and experienced school bus drivers in accordance with training programs prescribed by the Department. Up to \$56,975,910 in fiscal

year 2004 may be used by the Department of Education for special 67141
education transportation reimbursements to school districts and 67142
county MR/DD boards for transportation operating costs as provided 67143
in division (M) of section 3317.024 of the Revised Code. The 67144
reimbursement rate shall be based on the rate defined in division 67145
(D) of section 3317.022 of the Revised Code. The remainder of 67146
appropriation item 200-502, Pupil Transportation, shall be used 67147
for the state reimbursement of public school districts' costs in 67148
transporting pupils to and from the school they attend in 67149
accordance with the district's policy, State Board of Education 67150
standards, and the Revised Code. 67151

BUS PURCHASE ALLOWANCE 67152

The foregoing appropriation item 200-503, Bus Purchase 67153
Allowance, shall be distributed to school districts, educational 67154
service centers, and county MR/DD boards pursuant to rules adopted 67155
under section 3317.07 of the Revised Code. Up to 28 per cent of 67156
the amount appropriated may be used to reimburse school districts 67157
and educational service centers for the purchase of buses to 67158
transport handicapped and nonpublic school students and to county 67159
MR/DD boards, the Ohio School for the Deaf, and the Ohio School 67160
for the Blind for the purchase of buses to transport handicapped 67161
students. 67162

SCHOOL LUNCH MATCH 67163

The foregoing appropriation item 200-505, School Lunch Match, 67164
shall be used to provide matching funds to obtain federal funds 67165
for the school lunch program. 67166

Section 40.10. ADULT LITERACY EDUCATION 67167

The foregoing appropriation item 200-509, Adult Literacy 67168
Education, shall be used to support adult basic and literacy 67169
education instructional programs and the State Literacy Resource 67170

Center Program. 67171

Of the foregoing appropriation item 200-509, Adult Literacy 67172
Education, up to \$519,188 in fiscal year 2004 shall be used for 67173
the support and operation of the State Literacy Resource Center. 67174

Of the foregoing appropriation item 200-509, Adult Literacy 67175
Education, \$146,250 in fiscal year 2004 shall be used to support 67176
initiatives for English as a second language programs in 67177
combination with citizenship. Funding shall be provided to 67178
organizations that received such funds during fiscal year 2003 67179
from appropriation item 200-570, School Improvement Incentive 67180
Grants. 67181

The remainder of the appropriation shall be used to continue 67182
to satisfy the state match and maintenance of effort requirements 67183
for the support and operation of the Department of 67184
Education-administered instructional grant program for adult basic 67185
and literacy education in accordance with the department's state 67186
plan for adult basic and literacy education as approved by the 67187
State Board of Education and the Secretary of the United States 67188
Department of Education. 67189

AUXILIARY SERVICES 67190

The foregoing appropriation item 200-511, Auxiliary Services, 67191
shall be used by the Department of Education for the purpose of 67192
implementing section 3317.06 of the Revised Code. Of the 67193
appropriation, up to \$1,462,500 in fiscal year 2004 may be used 67194
for payment of the Post-Secondary Enrollment Options Program for 67195
nonpublic students pursuant to section 3365.10 of the Revised 67196
Code. 67197

STUDENT INTERVENTION SERVICES 67198

The foregoing appropriation item 200-513, Student 67199
Intervention Services, shall be used to assist districts providing 67200
the intervention services specified in section 3313.608 of the 67201

Revised Code. The Department of Education shall establish 67202
guidelines for the use and distribution of these moneys. School 67203
districts receiving funds from this appropriation shall report to 67204
the Department of Education on how funds were used. 67205

POSTSECONDARY ADULT CAREER-TECHNICAL EDUCATION 67206

The foregoing appropriation item 200-514, Postsecondary Adult 67207
Career-Technical Education, shall be used by the State Board of 67208
Education to provide postsecondary adult career-technical 67209
education under sections 3313.52 and 3313.53 of the Revised Code. 67210

DISADVANTAGED PUPIL IMPACT AID 67211

Notwithstanding the distribution formula outlined in section 67212
3317.029 of the Revised Code, each school district shall receive 67213
an additional two per cent in Disadvantaged Pupil Impact Aid 67214
funding in fiscal year 2004 over what was received in fiscal year 67215
2003. 67216

School districts must continue to comply with all expenditure 67217
guidelines and restrictions outlined in divisions (F), (G), (I), 67218
and (K) of section 3317.029 of the Revised Code by assuming a two 67219
per cent increase in funds for each program outlined in divisions 67220
(C), (D), and (E) of section 3317.029 of the Revised Code and by 67221
assuming a DPIA index equivalent to the index calculated in fiscal 67222
year 2003. 67223

The Department of Education shall pay all-day, everyday 67224
kindergarten funding to all school districts in fiscal year 2004 67225
that qualified for and provided the service in fiscal year 2003 67226
pursuant to section 3317.029 of the Revised Code. School districts 67227
and community schools that did not have a DPIA allocation in 67228
fiscal year 2003 shall not receive an allocation in fiscal year 67229
2004. 67230

Of the foregoing appropriation item 200-520, Disadvantaged 67231
Pupil Impact Aid, up to \$3,300,000 in fiscal year 2004 shall be 67232

used for school breakfast programs. Of this amount, up to \$500,000 67233
shall be used in fiscal year 2004 by the Department of Education 67234
to provide start-up grants to school districts that start school 67235
breakfast programs. The remainder of the appropriation shall be 67236
used to: (1) partially reimburse school buildings within school 67237
districts that are required to have a school breakfast program 67238
pursuant to section 3313.813 of the Revised Code, at a rate 67239
decided by the Department, for each breakfast served to any pupil 67240
enrolled in the district; (2) partially reimburse districts 67241
participating in the National School Lunch Program that have at 67242
least 20 per cent of students who are eligible for free and 67243
reduced meals according to federal standards, at a rate decided by 67244
the Department; and (3) to partially reimburse districts 67245
participating in the National School Lunch Program for breakfast 67246
served to children eligible for free and reduced meals enrolled in 67247
the district, at a rate decided by the Department. 67248

Of the portion of the funds distributed to the Cleveland 67249
Municipal School District under this section, up to \$11,901,887 in 67250
fiscal year 2004 shall be used to operate the school choice 67251
program in the Cleveland Municipal School District pursuant to 67252
sections 3313.974 to 3313.979 of the Revised Code. 67253

Of the foregoing appropriation item 200-520, Disadvantaged 67254
Pupil Impact Aid, \$1,000,000 in fiscal year 2004 shall be used to 67255
support dropout recovery programs administered by the Department 67256
of Education, Jobs for Ohio's Graduates Program. 67257

Section 40.11. GIFTED PUPIL PROGRAM 67258

The foregoing appropriation item 200-521, Gifted Pupil 67259
Program, shall be used for gifted education units not to exceed 67260
1,110 in fiscal year 2004 pursuant to division (P) of section 67261
3317.024 and division (F) of section 3317.05 of the Revised Code. 67262

Of the foregoing appropriation item 200-521, Gifted Pupil 67263

Program, up to \$5,000,000 in fiscal year 2004 may be used as an 67264
additional supplement for identifying gifted students pursuant to 67265
Chapter 3324. of the Revised Code. 67266

Of the foregoing appropriation item 200-521, Gifted Pupil 67267
Program, the Department of Education may expend up to \$1,000,000 67268
in fiscal year 2004 for the Summer Honors Institute for gifted 67269
freshman and sophomore high school students. Up to \$600,000 in 67270
fiscal year 2004 shall be used for research and demonstration 67271
projects. The Department of Education shall research and evaluate 67272
the effectiveness of gifted education programs in Ohio. Up to 67273
\$70,000 in fiscal year 2004 shall be used for the Ohio Summer 67274
School for the Gifted (Martin Essex Program). 67275

Section 40.12. PARITY AID 67276

The foregoing appropriation item 200-525, Parity Aid, shall 67277
be distributed to school districts in fiscal year 2004 based on 67278
the formulas specified in section 3317.0217 of the Revised Code. 67279

NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT 67280

The foregoing appropriation item 200-532, Nonpublic 67281
Administrative Cost Reimbursement, shall be used by the Department 67282
of Education for the purpose of implementing section 3317.063 of 67283
the Revised Code. 67284

Section 40.13. SPECIAL EDUCATION ENHANCEMENTS 67285

Of the foregoing appropriation item 200-540, Special 67286
Education Enhancements, up to \$47,546,796 in fiscal year 2004 67287
shall be used to fund special education and related services at 67288
county boards of mental retardation and developmental disabilities 67289
for eligible students under section 3317.20 of the Revised Code. 67290
Up to \$2,452,125 shall be used in fiscal year 2004 to fund special 67291
education classroom and related services units at institutions. 67292

Of the foregoing appropriation item 200-540, Special 67293
Education Enhancements, up to \$3,406,875 in fiscal year 2004 shall 67294
be used for home instruction for children with disabilities; up to 67295
\$1,462,500 in fiscal year 2004 shall be used for parent mentoring 67296
programs; and up to \$2,783,396 in fiscal year 2004 may be used for 67297
school psychology interns. 67298

Of the foregoing appropriation item 200-540, Special 67299
Education Enhancements, \$3,906,090 in fiscal year 2004 shall be 67300
used by the Department of Education to assist school districts in 67301
funding aides pursuant to paragraph (A)(3)(c)(i)(b) of rule 67302
3301-51-04 of the Administrative Code. 67303

Of the foregoing appropriation item 200-540, Special 67304
Education Enhancements, \$78,399,498 in fiscal year 2004 shall be 67305
distributed by the Department of Education to county boards of 67306
mental retardation and developmental disabilities, educational 67307
service centers, and school districts for preschool special 67308
education units and preschool supervisory units in accordance with 67309
section 3317.161 of the Revised Code. The department may reimburse 67310
county boards of mental retardation and developmental 67311
disabilities, educational service centers, and school districts 67312
for related services as defined in rule 3301-31-05 of the 67313
Administrative Code, for preschool occupational and physical 67314
therapy services provided by a physical therapy assistant and 67315
certified occupational therapy assistant, and for an instructional 67316
assistant. To the greatest extent possible, the Department of 67317
Education shall allocate these units to school districts and 67318
educational service centers. The Controlling Board may approve the 67319
transfer of unallocated funds from appropriation item 200-501, 67320
Base Cost Funding, to appropriation item 200-540, Special 67321
Education Enhancements, to fully fund existing units as necessary 67322
or to fully fund additional units. The Controlling Board may 67323
approve the transfer of unallocated funds from appropriation item 67324

200-540, Special Education Enhancements, to appropriation item 67325
200-501, Base Cost Funding, to fully fund the special education 67326
weight cost funding. 67327

The Department of Education shall require school districts, 67328
educational service centers, and county MR/DD boards serving 67329
preschool children with disabilities to document child progress 67330
using research-based indicators prescribed by the Department and 67331
report results annually. The reporting dates and methodology shall 67332
be determined by the Department. 67333

Of the foregoing appropriation item 200-540, Special 67334
Education Enhancements, up to \$83,850 in fiscal year 2004 shall be 67335
used to conduct a collaborative pilot program to provide 67336
educational services and develop best educational practices for 67337
autistic children. 67338

Section 40.14. CAREER-TECHNICAL EDUCATION ENHANCEMENTS 67339

Of the foregoing appropriation item 200-545, Career-Technical 67340
Education Enhancements, up to \$2,576,107 in fiscal year 2004 shall 67341
be used to fund career-technical education units at institutions. 67342
Up to \$4,159,770 in fiscal year 2004 shall be used to fund the 67343
Jobs for Ohio Graduates (JOG) program. 67344

Of the foregoing appropriation item 200-545, Career-Technical 67345
Education Enhancements, up to \$4,387,500 in fiscal year 2004 shall 67346
be used by the Department of Education to fund competitive grants 67347
to tech prep consortia that expand the number of students enrolled 67348
in tech prep programs. These grant funds shall be used to directly 67349
support expanded tech prep programs, including equipment, provided 67350
to students enrolled in school districts, including joint 67351
vocational school districts, and affiliated higher education 67352
institutions. 67353

If federal funds for career-technical education cannot be 67354

used for local school district leadership without being matched by 67355
state funds, then an amount as determined by the Superintendent of 67356
Public Instruction shall be made available from state funds 67357
appropriated for career-technical education. If any state funds 67358
are used for this purpose, federal funds in an equal amount shall 67359
be distributed for career-technical education in accordance with 67360
authorization of the state plan for career-technical education for 67361
Ohio as approved by the Secretary of the United States Department 67362
of Education. 67363

Of the foregoing appropriation item 200-545, Career-Technical 67364
Education Enhancements, \$1,462,500 in fiscal year 2004 shall be 67365
used to provide an amount to each eligible school district for the 67366
replacement or updating of equipment essential for the instruction 67367
of students in job skills taught as part of a career-technical 67368
program or programs approved for such instruction by the State 67369
Board of Education. School districts replacing or updating 67370
career-technical education equipment may purchase or lease such 67371
equipment. The Department of Education shall review and approve 67372
all equipment requests and may allot appropriated funds to 67373
eligible school districts on the basis of the number of full-time 67374
equivalent workforce development teachers in all eligible 67375
districts making application for funds. 67376

The State Board of Education may adopt standards of need for 67377
equipment allocation. Pursuant to the adoption of any such 67378
standards of need by the State Board of Education, appropriated 67379
funds may be allotted to eligible districts according to such 67380
standards. Equipment funds allotted under either process shall be 67381
provided to a school district on a 30, 40, or 50 per cent of cost 67382
on the basis of a district career-technical priority index rating 67383
developed by the Department of Education for all districts. The 67384
career-technical priority index shall give preference to districts 67385
with a large percentage of disadvantaged students and shall 67386

include other socio-economic factors as determined by the State Board of Education. 67387
67388

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$3,900,000 in fiscal year 2004 shall be used by the Department of Education to support existing High Schools That Work (HSTW) sites, develop and support new sites, fund technical assistance, and support regional centers and middle school programs. The purpose of HSTW is to combine challenging academic courses and modern career-technical studies to raise the academic achievement of students. It provides intensive technical assistance, focused staff development, targeted assessment services, and ongoing communications and networking opportunities. 67389
67390
67391
67392
67393
67394
67395
67396
67397
67398

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, \$3,900,000 in fiscal year 2004 shall be used for K-12 career development. 67399
67400
67401

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$996,800 in fiscal year 2004 shall be allocated for the Ohio Career Information System (OCIS) and used for the dissemination of career information data to public schools, libraries, rehabilitation centers, two- and four-year colleges and universities, and other governmental units. 67402
67403
67404
67405
67406
67407

Section 40.15. CHARGE-OFF SUPPLEMENT 67408

The foregoing appropriation item 200-546, Charge-Off Supplement, shall be used in fiscal year 2004 by the Department of Education to make payments pursuant to section 3317.0216 of the Revised Code. 67409
67410
67411
67412

EMERGENCY LOAN INTEREST SUBSIDY 67413

The foregoing appropriation item 200-558, Emergency Loan Interest Subsidy, shall be used to provide a subsidy to school districts receiving emergency school loans pursuant to section 67414
67415
67416

3313.484 of the Revised Code. The subsidy shall be used to pay 67417
these districts the difference between the amount of interest the 67418
district is paying on an emergency loan, and the interest that the 67419
district would have paid if the interest rate on the loan had been 67420
two per cent. 67421

Section 40.16. OHIOREADS GRANTS 67422

The foregoing appropriation item 200-566, OhioReads Grants, 67423
shall be disbursed by the OhioReads Office in the Department of 67424
Education at the direction of the OhioReads Council to provide 67425
grants to public schools in city, local, and exempted village 67426
school districts; community schools; and educational service 67427
centers serving kindergarten through fourth grade students to 67428
support local reading literacy initiatives including reading 67429
programs, materials, professional development, tutoring, tutor 67430
recruitment and training, and parental involvement. 67431

Grants awarded by the OhioReads Council are intended to 67432
improve reading outcomes, especially on reading proficiency tests. 67433

SAFE AND SUPPORTIVE SCHOOLS 67434

Of the foregoing appropriation item 200-578, Safe and 67435
Supportive Schools, up to \$224,250 in fiscal year 2004 shall be 67436
used to fund a safe school center to provide resources for parents 67437
and for school and law enforcement personnel. The remainder of the 67438
appropriation shall be distributed based on guidelines developed 67439
by the Department of Education to enhance school safety. The 67440
guidelines shall provide a list of research-based best practices 67441
and programs from which local grantees shall select based on local 67442
needs. These practices shall include, but not be limited to, 67443
school resource officers and safe and drug free school 67444
coordinators, a safe school help line, and social-emotional 67445
development programs. 67446

Section 40.17. PROPERTY TAX ALLOCATION - EDUCATION 67447

The Superintendent of Public Instruction shall not request, 67448
and the Controlling Board shall not approve, the transfer of funds 67449
from appropriation item 200-901, Property Tax Allocation - 67450
Education, to any other appropriation item. 67451

The appropriation item 200-901, Property Tax Allocation - 67452
Education, is appropriated to pay for the state's costs incurred 67453
due to the homestead exemption and the property tax rollback. In 67454
cooperation with the Department of Taxation, the Department of 67455
Education shall distribute these funds directly to the appropriate 67456
school districts of the state, notwithstanding sections 321.24 and 67457
323.156 of the Revised Code, which provide for payment of the 67458
homestead exemption and property tax rollback by the Tax 67459
Commissioner to the appropriate county treasurer and the 67460
subsequent redistribution of these funds to the appropriate local 67461
taxing districts by the county auditor. 67462

Appropriation item 200-906, Tangible Tax Exemption - 67463
Education, is appropriated to pay for the state's costs incurred 67464
due to the tangible personal property tax exemption required by 67465
division (C)(3) of section 5709.01 of the Revised Code. In 67466
cooperation with the Department of Taxation, the Department of 67467
Education shall distribute to each county treasurer the total 67468
amount certified by the county treasurer pursuant to section 67469
319.311 of the Revised Code, for all school districts located in 67470
the county, notwithstanding the provision in section 319.311 of 67471
the Revised Code which provides for payment of the \$10,000 67472
tangible personal property tax exemption by the Tax Commissioner 67473
to the appropriate county treasurer for all local taxing districts 67474
located in the county. Pursuant to division (G) of section 321.24 67475
of the Revised Code, the county auditor shall distribute the 67476
amount paid by the Department of Education among the appropriate 67477

school districts. 67478

Upon receipt of these amounts, each school district shall 67479
distribute the amount among the proper funds as if it had been 67480
paid as real or tangible personal property taxes. Payments for the 67481
costs of administration shall continue to be paid to the county 67482
treasurer and county auditor as provided for in sections 319.54, 67483
321.26, and 323.156 of the Revised Code. 67484

Any sums, in addition to the amounts specifically 67485
appropriated in appropriation items 200-901, Property Tax 67486
Allocation - Education, for the homestead exemption and the 67487
property tax rollback payments, and 200-906, Tangible Tax 67488
Exemption - Education, for the \$10,000 tangible personal property 67489
tax exemption payments, which are determined to be necessary for 67490
these purposes, are hereby appropriated. 67491

Section 40.18. TEACHER CERTIFICATION AND LICENSURE 67492

The foregoing appropriation item 200-681, Teacher 67493
Certification and Licensure, shall be used by the Department of 67494
Education in each year of the biennium to administer teacher 67495
certification and licensure functions pursuant to sections 67496
3301.071, 3301.074, 3301.50, 3301.51, 3319.088, 3319.22, 3319.24 67497
to 3319.28, 3319.281, 3319.282, 3319.29, 3319.301, 3319.31, and 67498
3319.51 of the Revised Code. 67499

SCHOOL DISTRICT SOLVENCY ASSISTANCE 67500

Of the foregoing appropriation item 200-687, School District 67501
Solvency Assistance, \$9,000,000 in each fiscal year shall be 67502
allocated to the School District Shared Resource Account and 67503
\$9,000,000 in each fiscal year shall be allocated to the 67504
Catastrophic Expenditures Account. These funds shall be used to 67505
provide assistance and grants to school districts to enable them 67506
to remain solvent pursuant to section 3316.20 of the Revised Code. 67507

Assistance and grants shall be subject to approval by the 67508
Controlling Board. Any required reimbursements from school 67509
districts for solvency assistance shall be made to the appropriate 67510
account in the School District Solvency Assistance Fund (Fund 67511
5H3). 67512

Section 40.19. TITLE IV-A HEAD START PLUS/TITLE IV-A HEAD 67513
START 67514

The foregoing appropriation item 200-663, Head Start 67515
Plus/Head Start, shall be used to reimburse Title IV-A Head Start 67516
Plus/Title IV-A Head Start programs for services to children in 67517
accordance with sections 3301.31 to 3301.37 of the Revised Code. 67518
The Department of Education shall administer the Title IV-A Head 67519
Start Plus/Title IV-A Head Start programs in accordance with an 67520
interagency agreement between the Departments of Education and Job 67521
and Family Services. Title IV-A Head Start Plus/Title IV-A Head 67522
Start providers shall meet all requirements as outlined in section 67523
3301.311 of the Revised Code. The Department of Education shall 67524
adopt policies and procedures to establish a procedure for 67525
approving Title IV-A Head Start Plus/Title IV-A Head Start 67526
agencies. Up to \$2,000,000 in each fiscal year may be used by the 67527
Department of Education to provide program support and technical 67528
assistance. 67529

Of the foregoing appropriation item 200-663, Head Start 67530
Plus/Head Start, up to \$80,000,000 in fiscal year 2004 and up to 67531
\$81,600,000 in fiscal year 2005 shall be used to support the Title 67532
IV-A Head Start Plus initiative. Title IV-A Head Start Plus shall 67533
provide up to 10,000 slots of full-day, full-year programming for 67534
children at least three years of age and not kindergarten age 67535
eligible. The program shall meet the child care needs of 67536
low-income families who meet eligibility requirements established 67537
in rules and administrative orders adopted by the Ohio Department 67538

of Job and Family Services and provide early education and 67539
comprehensive services as provided through the Title IV-A Head 67540
Start program before the enactment of this act. 67541

Of the foregoing appropriation item 200-663, Head Start 67542
Plus/Head Start, up to \$19,200,000 in fiscal year 2004 and up to 67543
\$19,584,000 in fiscal year 2005 shall be used to support up to 67544
4,000 slots of traditional partial-day, partial-year Title IV-A 67545
Head Start services. 67546

The Department of Education shall adopt rules in accordance 67547
with Chapter 119. of the Revised Code to establish standards for 67548
the purpose of assessing Title IV-A Head Start Plus/Head Start 67549
agencies and contract compliance. The Department of Education 67550
shall require Title IV-A Head Start Plus/Title IV-A Head Start 67551
providers to document child progress using research-based 67552
indicators as prescribed by the department and report results 67553
annually. 67554

The Department of Education shall provide an annual report to 67555
the Governor, the Speaker of the House of Representatives, the 67556
President of the Senate, the State Board of Education, Title IV-A 67557
Head Start Plus/Title IV-A Head Start providers, and other 67558
interested parties regarding the Title IV-A Head Start Plus/Title 67559
IV-A Head Start program and performance indicators as outlined by 67560
the Department of Education. 67561

AUXILIARY SERVICES REIMBURSEMENT 67562

Notwithstanding section 3317.064 of the Revised Code, if the 67563
unobligated cash balance is sufficient, the Treasurer of State 67564
shall transfer \$1,500,000 in fiscal year 2004 within thirty days 67565
after the effective date of this section and \$1,500,000 in fiscal 67566
year 2005 by August 1, 2004, from the Auxiliary Services Personnel 67567
Unemployment Compensation Fund to the Department of Education's 67568
Auxiliary Services Reimbursement Fund (Fund 598). 67569

Section 40.20. LOTTERY PROFITS EDUCATION FUND 67570

Appropriation item 200-612, Base Cost Funding (Fund 017), 67571
shall be used in conjunction with appropriation item 200-501, Base 67572
Cost Funding (GRF), to provide payments to school districts 67573
pursuant to Chapter 3317. of the Revised Code. 67574

The Department of Education, with the approval of the 67575
Director of Budget and Management, shall determine the monthly 67576
distribution schedules of appropriation item 200-501, Base Cost 67577
Funding (GRF), and appropriation item 200-612, Base Cost Funding 67578
(Fund 017). If adjustments to the monthly distribution schedule 67579
are necessary, the Department of Education shall make such 67580
adjustments with the approval of the Director of Budget and 67581
Management. 67582

The Director of Budget and Management shall transfer via 67583
intrastate transfer voucher the amount appropriated under the 67584
Lottery Profits Education Fund for appropriation item 200-682, 67585
Lease Rental Payment Reimbursement, to the General Revenue Fund on 67586
a schedule determined by the director. These funds shall support 67587
the appropriation item 230-428, Lease Rental Payments (GRF), of 67588
the School Facilities Commission. 67589

* LOTTERY PROFITS TRANSFERS 67590

On or before the first day of May of each fiscal year, the 67591
Director of Budget and Management shall determine if lottery 67592
profits transfers will meet the appropriation amounts from the 67593
Lottery Profits Education Fund. 67594

Section 40.21. LOTTERY PROFITS EDUCATION RESERVE FUND 67595

(A) There is hereby created the Lottery Profits Education 67596
Reserve Fund (Fund 018) in the State Treasury. At no time shall 67597
the amount to the credit of the fund exceed \$75,000,000. 67598

Investment earnings of the Lottery Profits Education Reserve Fund 67599
shall be credited to the fund. Notwithstanding any provisions of 67600
law to the contrary, for fiscal years 2004 and 2005, there is 67601
appropriated to the Department of Education, from the Lottery 67602
Profits Education Reserve Fund, an amount necessary to make loans 67603
authorized by sections 3317.0210, 3317.0211, and 3317.62 of the 67604
Revised Code. All loan repayments from loans made in fiscal years 67605
1992, 1993, 1994, 1995, 1996, 1997, 1998, or 1999 shall be 67606
deposited into the credit of the Lottery Profits Education Reserve 67607
Fund. 67608

(B)(1) On or before July 15, 2003, the Director of Budget and 67609
Management shall determine the amount by which lottery profit 67610
transfers received by the Lottery Profits Education Fund for 67611
fiscal year 2003 exceed \$637,722,600. The amount so certified 67612
shall be distributed in fiscal year 2004 pursuant to division (C) 67613
of this section. 67614

(2) On or before July 15, 2004, the Director of Budget and 67615
Management shall determine the amount by which lottery profit 67616
transfers received by the Lottery Profits Education Fund for 67617
fiscal year 2004 exceed \$637,900,000. The amount so determined 67618
shall be distributed in fiscal year 2005 pursuant to division (D) 67619
of this section. 67620

The Director of Budget and Management shall annually certify 67621
the amounts determined pursuant to this section to the Speaker of 67622
the House of Representatives and the President of the Senate. 67623

(C) In fiscal year 2004, if there is a balance in the Lottery 67624
Profits Education Fund, the moneys shall be allocated as provided 67625
in this division. Any amounts so allocated are appropriated. 67626

An amount equal to five per cent of the estimated lottery 67627
profits of \$637,722,600 in fiscal year 2003 or the amount 67628
remaining in the fund, whichever is the lesser amount, shall be 67629

transferred to the Lottery Profits Education Reserve Fund within 67630
the limitations specified in division (A) of this section and be 67631
reserved and shall not be available for allocation or distribution 67632
during fiscal year 2004. Any amounts exceeding \$75,000,000 shall 67633
be distributed pursuant to division (E) of this section. 67634

(D) In fiscal year 2005, if there is a balance in the Lottery 67635
Profits Education Fund, the moneys shall be allocated as provided 67636
in this division. Any amounts so allocated are appropriated. 67637

An amount equal to five per cent of the estimated lottery 67638
profits transfers of \$637,900,000 in fiscal year 2004 or the 67639
amount remaining in the fund, whichever is the lesser amount, 67640
shall be transferred to the Lottery Profits Education Reserve Fund 67641
within the limitations specified in division (A) of this section 67642
and be reserved and shall not be available for allocation or 67643
distribution during fiscal year 2005. Any amounts exceeding 67644
\$75,000,000 shall be distributed pursuant to division (E) of this 67645
section. 67646

(E) In the appropriate fiscal year, any remaining amounts 67647
after the operations required by division (C) or (D) of this 67648
section, respectively, shall be transferred to the Public School 67649
Building Fund (Fund 021) and such amount is appropriated to 67650
appropriation item CAP-622, Public School Buildings, in the School 67651
Facilities Commission. 67652

Section 40.22. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT 67653

The foregoing appropriation item 200-900, School District 67654
Property Tax Replacement, shall be used by the Department of 67655
Education, in consultation with the Department of Taxation, to 67656
make payments to school districts and joint vocational school 67657
districts pursuant to section 5727.85 of the Revised Code. 67658

Section 40.23. * DISTRIBUTION FORMULAS 67659

The Department of Education shall report the following to the 67660
Director of Budget and Management, the Legislative Office of 67661
Education Oversight, and the Legislative Service Commission: 67662

(A) Changes in formulas for distributing state 67663
appropriations, including administratively defined formula 67664
factors; 67665

(B) Discretionary changes in formulas for distributing 67666
federal appropriations; 67667

(C) Federally mandated changes in formulas for distributing 67668
federal appropriations. 67669

Any such changes shall be reported two weeks prior to the 67670
effective date of the change. 67671

Section 40.24. DISTRIBUTION - SCHOOL DISTRICT SUBSIDY 67672
PAYMENTS 67673

This section shall not take effect unless the Director of 67674
Budget and Management adopts an order putting it into effect and 67675
certifies a copy of the order to the Superintendent of Public 67676
Instruction and the Controlling Board. 67677

Notwithstanding any other provision of the Revised Code, the 67678
monthly distribution of payments made to school districts and 67679
educational service centers pursuant to section 3317.01 of the 67680
Revised Code for the first six months of each fiscal year shall 67681
equal, as nearly as possible, six and two-thirds per cent of the 67682
estimate of the amounts payable for each fiscal year. The monthly 67683
distribution of payments for the last six months of each fiscal 67684
year shall equal, as nearly as possible, ten per cent of the final 67685
calculation of the amounts payable to each school district for 67686
that fiscal year. 67687

The treasurer of each school district or educational service 67688
center may accrue, in addition to the payments defined in this 67689

section, to the accounts of the calendar years that end during 67690
each fiscal year, the difference between the sum of the first six 67691
months' payments in each fiscal year and the amounts the district 67692
would have received had the payments been made in, as nearly as 67693
possible in each fiscal year, twelve equal monthly payments. 67694

Notwithstanding the limitations on the amount of borrowing 67695
and time of payment provided for in section 133.10 of the Revised 67696
Code but subject to sections 133.26 and 133.30 of the Revised 67697
Code, a board of education of a school district may at any time 67698
between July 1, 2003, and December 31, 2003, or at any time 67699
between July 1, 2004, and December 31, 2004, borrow money to pay 67700
any necessary and actual expenses of the school district during 67701
the last six months of calendar years 2003 and 2004 and in 67702
anticipation of the receipt of any portion of the payments to be 67703
received by that district in the first six months of calendar 67704
years 2004 and 2005 representing the respective amounts accrued 67705
pursuant to the preceding paragraph, and issue notes to evidence 67706
that borrowing to mature not later than the thirtieth day of June 67707
of the calendar year following the calendar year in which such 67708
amount was borrowed. The principal amount borrowed in the last six 67709
months of calendar years 2003 or 2004 under this paragraph may not 67710
exceed the entire amount accrued or to be accrued by the district 67711
treasurer in those calendar years pursuant to the preceding 67712
paragraph. The proceeds of the notes shall be used only for the 67713
purposes for which the anticipated receipts are lawfully 67714
appropriated by the board of education. No board of education 67715
shall be required to use the authority granted by this paragraph. 67716
The receipts so anticipated, and additional amounts from 67717
distributions to the districts in the first six months of calendar 67718
years 2004 and 2005 pursuant to Chapter 3317. of the Revised Code 67719
needed to pay the interest on the notes, shall be deemed 67720
appropriated by the board of education to the extent necessary for 67721
the payment of the principal of and interest on the notes at 67722

maturity, and the amounts necessary to make those monthly 67723
distributions are appropriated from the General Revenue Fund. For 67724
the purpose of better ensuring the prompt payment of principal of 67725
and interest on the notes when due, the resolution of the board of 67726
education authorizing the notes may direct that the amount of the 67727
receipts anticipated, together with those additional amounts 67728
needed to pay the interest on the borrowed amounts, shall be 67729
deposited and segregated, in trust or otherwise, to the extent, at 67730
the time or times, and in the manner provided in that resolution. 67731
The borrowing authorized by this section does not constitute debt 67732
for purposes of section 133.04 of the Revised Code. School 67733
districts shall be reimbursed by the state for all necessary and 67734
actual costs to districts arising from this provision, including, 67735
without limitation, the interest paid on the notes while the notes 67736
are outstanding. The Department of Education shall adopt rules 67737
that are not inconsistent with this section for school district 67738
eligibility and application for reimbursement of such costs. 67739
Payments of these costs shall be made out of any anticipated 67740
balances in appropriation items distributed under Chapter 3317. of 67741
the Revised Code. The department shall submit all requests for 67742
reimbursement under these provisions to the Controlling Board for 67743
approval. 67744

During the last six months of each calendar year, instead of 67745
deducting the amount the Superintendent of Public Instruction 67746
would otherwise deduct from a school district's or educational 67747
service center's state aid payments in accordance with the 67748
certifications made for such year pursuant to sections 3307.56 and 67749
3309.51 of the Revised Code, the superintendent shall deduct an 67750
amount equal to forty per cent of the amount so certified. The 67751
secretaries of the retirement systems shall compute the 67752
certifications for the ensuing year under such sections as if the 67753
entire amounts certified as due in the calendar year ending the 67754
current fiscal year, but not deducted pursuant to this paragraph, 67755

had been deducted and paid in that calendar year. During the first 67756
six months of the ensuing calendar year, in addition to deducting 67757
the amounts the Superintendent of Public Instruction is required 67758
to deduct under such sections during such period, the 67759
superintendent shall deduct from a district's or educational 67760
service center's state aid payments an additional amount equal to 67761
the amount that was certified as due from the district for the 67762
calendar year that ends during the fiscal year, but that was not 67763
deducted because of this paragraph. The superintendent's 67764
certifications to the Director of Budget and Management during the 67765
first six months of the calendar year shall reflect such 67766
additional deduction. 67767

Section 40.25. EDUCATIONAL SERVICE CENTERS FUNDING 67768

Notwithstanding division (B) of section 3317.11 of the 67769
Revised Code, no funds shall be provided to an educational service 67770
center in fiscal year 2004 for any pupils of a city or exempted 67771
village school district unless an agreement to provide services 67772
under section 3313.843 of the Revised Code was entered into by 67773
January 1, 1997, except that funds shall be provided to an 67774
educational service center for any pupils of a city school 67775
district if the agreement to provide services was entered into 67776
within one year of the date upon which such district changed from 67777
a local school district to a city school district. If insufficient 67778
funds are appropriated in fiscal year 2004 for the purposes of 67779
division (B) of section 3317.11 of the Revised Code, the 67780
Department shall first distribute to each educational service 67781
center \$37 per pupil in its service center ADM, as defined in that 67782
section. The remaining funds in fiscal year 2004 shall be 67783
distributed proportionally, on a per-student basis, to each 67784
educational service center for its client ADM, as defined in that 67785
section, that is attributable to each city and exempted village 67786
school district that had entered into an agreement with an 67787

educational service center for that fiscal year under section 67788
3313.843 of the Revised Code by January 1, 1997. 67789

Section 40.26. * For the school year commencing July 1, 2003, 67790
or the school year commencing July 1, 2004, or both, the 67791
Superintendent of Public Instruction may waive for the board of 67792
education of any school district the ratio of teachers to pupils 67793
in kindergarten through fourth grade required under paragraph 67794
(A)(3) of rule 3301-35-05 of the Administrative Code if the 67795
following conditions apply: 67796

(A) The board of education requests the waiver. 67797

(B) After the Department of Education conducts an on-site 67798
evaluation of the district related to meeting the required ratio, 67799
the board of education demonstrates to the satisfaction of the 67800
Superintendent of Public Instruction that providing the facilities 67801
necessary to meet the required ratio during the district's regular 67802
school hours with pupils in attendance would impose an extreme 67803
hardship on the district. 67804

(C) The board of education provides assurances that are 67805
satisfactory to the Superintendent of Public Instruction that the 67806
board will act in good faith to meet the required ratio as soon as 67807
possible. 67808

Section 40.27. PRIVATE TREATMENT FACILITY PILOT PROJECT 67809

(A) As used in this section: 67810

(1) The following are "participating residential treatment 67811
centers": 67812

(a) Private residential treatment facilities that have 67813
entered into a contract with the Department of Youth Services to 67814
provide services to children placed at the facility by the 67815
Department and which, in fiscal year 2004, the Department pays 67816

through appropriation item 470-401, Care and Custody; 67817

(b) Abraxas, in Shelby; 67818

(c) Paint Creek, in Bainbridge; 67819

(d) Act One, in Akron; 67820

(e) Friars Club, in Cincinnati. 67821

(2) "Education program" means an elementary or secondary 67822
education program or a special education program and related 67823
services. 67824

(3) "Served child" means any child receiving an education 67825
program pursuant to division (B) of this section. 67826

(4) "School district responsible for tuition" means a city, 67827
exempted village, or local school district that, if tuition 67828
payment for a child by a school district is required under law 67829
that existed in fiscal year 1998, is the school district required 67830
to pay that tuition. 67831

(5) "Residential child" means a child who resides in a 67832
participating residential treatment center and who is receiving an 67833
educational program under division (B) of this section. 67834

(B) A youth who is a resident of the state and has been 67835
assigned by a juvenile court or other authorized agency to a 67836
residential treatment facility specified in division (A) of this 67837
section shall be enrolled in an approved educational program 67838
located in or near the facility. Approval of the educational 67839
program shall be contingent upon compliance with the criteria 67840
established for such programs by the Department of Education. The 67841
educational program shall be provided by a school district or 67842
educational service center, or by the residential facility itself. 67843
Maximum flexibility shall be given to the residential treatment 67844
facility to determine the provider. In the event that a voluntary 67845
agreement cannot be reached and the residential facility does not 67846

choose to provide the educational program, the educational service 67847
center in the county in which the facility is located shall 67848
provide the educational program at the treatment center to 67849
children under twenty-two years of age residing in the treatment 67850
center. 67851

(C) Any school district responsible for tuition for a 67852
residential child shall, notwithstanding any conflicting provision 67853
of the Revised Code regarding tuition payment, pay tuition for the 67854
child for fiscal year 2004 to the education program provider and 67855
in the amount specified in this division. If there is no school 67856
district responsible for tuition for a residential child and if 67857
the participating residential treatment center to which the child 67858
is assigned is located in the city, exempted village, or local 67859
school district that, if the child were not a resident of that 67860
treatment center, would be the school district where the child is 67861
entitled to attend school under sections 3313.64 and 3313.65 of 67862
the Revised Code, that school district, notwithstanding any 67863
conflicting provision of the Revised Code, shall pay tuition for 67864
the child for fiscal year 2004 under this division unless that 67865
school district is providing the educational program to the child 67866
under division (B) of this section. 67867

A tuition payment under this division shall be made to the 67868
school district, educational service center, or residential 67869
treatment facility providing the educational program to the child. 67870

The amount of tuition paid shall be: 67871

(1) The amount of tuition determined for the district under 67872
division (A) of section 3317.08 of the Revised Code; 67873

(2) In addition, for any student receiving special education 67874
pursuant to an individualized education program as defined in 67875
section 3323.01 of the Revised Code, a payment for excess costs. 67876
This payment shall equal the actual cost to the school district, 67877

educational service center, or residential treatment facility of 67878
providing special education and related services to the student 67879
pursuant to the student's individualized education program, minus 67880
the tuition paid for the child under division (C)(1) of this 67881
section. 67882

A school district paying tuition under this division shall 67883
not include the child for whom tuition is paid in the district's 67884
average daily membership certified under division (A) of section 67885
3317.03 of the Revised Code. 67886

(D) In fiscal year 2004, the Department of Education shall 67887
reimburse, from appropriations made for the purpose, a school 67888
district, educational service center, or residential treatment 67889
facility, whichever is providing the service, that has 67890
demonstrated that it is in compliance with the funding criteria 67891
for each served child for whom a school district must pay tuition 67892
under division (C) of this section. The amount of the 67893
reimbursement shall be the formula amount specified in section 67894
3317.022 of the Revised Code, except that the department shall 67895
proportionately reduce this reimbursement if sufficient funds are 67896
not available to pay this amount to all qualified providers. 67897

(E) Funds provided to a school district, educational service 67898
center, or residential treatment facility under this section shall 67899
be used to supplement, not supplant, funds from other public 67900
sources for which the school district, service center, or 67901
residential treatment facility is entitled or eligible. 67902

(F) The Department of Education shall track the utilization 67903
of funds provided to school districts, educational service 67904
centers, and residential treatment facilities under this section 67905
and monitor the effect of the funding on the educational programs 67906
they provide in participating residential treatment facilities. 67907
The department shall monitor the programs for educational 67908
accountability. 67909

Section 40.28. SCHOOL DISTRICT PARTICIPATION IN NATIONAL ASSESSMENT OF EDUCATION PROGRESS 67910
67911

The General Assembly intends for the Superintendent of Public Instruction to provide for school district participation in the administration of the National Assessment of Education Progress in accordance with section 3301.27 of the Revised Code. 67912
67913
67914
67915

Section 40.29. Notwithstanding division (C)(1) of section 3313.975 of the Revised Code, in addition to students in kindergarten through third grade, initial scholarships may be awarded to fourth, fifth, sixth, seventh, and eighth grade students in fiscal year 2004. 67916
67917
67918
67919
67920

Section 40.30. STATEMENT OF STATE SHARE PERCENTAGE FOR BASE COST AND PARITY AID FUNDING 67921
67922

Pursuant to division (D)(3) of section 3317.012 of the Revised Code, and based on the most recent data available prior to the enactment of this act, the General Assembly has determined that the state share percentage of base cost and parity aid funding for the update year (fiscal year 2002) is 49.0%. This is the target percentage for fiscal year 2004 that the General Assembly shall use to fulfill its obligation under division (D)(4) of section 3317.012 of the Revised Code. 67923
67924
67925
67926
67927
67928
67929
67930

Pursuant to division (D)(4) of section 3317.012 of the Revised Code, and based on the most recent data available prior to the enactment of this act, the General Assembly has determined that the state share percentage of base cost and parity aid funding for fiscal year 2004 is 48.5%. This determination fulfills the General Assembly's obligation under that division for fiscal year 2004. 67931
67932
67933
67934
67935
67936
67937

Section 40.31. DEPARTMENT OF EDUCATION APPROPRIATION	67938
TRANSFERS FOR STUDENT ASSESSMENT	67939
In fiscal year 2004, if the Superintendent of Public	67940
Instruction determines that additional funds are needed to fully	67941
fund the requirements of Am. Sub. S.B. 1 of the 124th General	67942
Assembly for assessments of student performance, the	67943
Superintendent of Public Instruction may recommend the	67944
reallocation of unspent and unencumbered appropriations within the	67945
Department of Education to the General Revenue Fund appropriation	67946
item 200-437, Student Assessment, to the Director of Budget and	67947
Management. If the Director of Budget and Management determines	67948
that such a reallocation is required, the Director of Budget and	67949
Management may transfer unspent and unencumbered funds within the	67950
Department of Education as necessary to appropriation item	67951
200-437, Student Assessment.	67952
 Section 41. OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK	67953
COMMISSION	67954
General Revenue Fund	67955
GRF 374-100 Personal Services \$ 1,357,108 \$ 1,385,667	67956
GRF 374-200 Maintenance \$ 889,202 \$ 888,488	67957
GRF 374-300 Equipment \$ 97,500 \$ 97,500	67958
GRF 374-401 Statehouse News Bureau \$ 190,265 \$ 185,508	67959
GRF 374-402 Ohio Government \$ 705,938 \$ 688,289	67960
Telecommunications	
Studio	
GRF 374-403 Ohio SONET \$ 2,202,900 \$ 2,147,828	67961
GRF 374-404 Telecommunications \$ 3,917,199 \$ 3,819,269	67962
Operating Subsidy	
TOTAL GRF General Revenue Fund \$ 9,360,112 \$ 9,212,549	67963
General Services Fund Group	67964

4F3 374-603	Affiliate Services	\$	3,067,447	\$	3,067,447	67965
4T2 374-605	Government	\$	150,000	\$	150,000	67966
	Television/Telecommunications					
	Operating					
TOTAL GSF	General Services					67967
Fund Group		\$	3,217,447	\$	3,217,447	67968
TOTAL ALL BUDGET FUND GROUPS		\$	12,577,559	\$	12,429,996	67969
	STATEHOUSE NEWS BUREAU					67970
	The foregoing appropriation item 374-401, Statehouse News					67971
	Bureau, shall be used solely to support the operations of the Ohio					67972
	Statehouse News Bureau.					67973
	OHIO GOVERNMENT TELECOMMUNICATIONS STUDIO					67974
	The foregoing appropriation item 374-402, Ohio Government					67975
	Telecommunications Studio, shall be used solely to support the					67976
	operations of the Ohio Government Telecommunications Studio.					67977
	OHIO SONET					67978
	The foregoing appropriation item 374-403, Ohio SONET, shall					67979
	be used by the Ohio Educational Telecommunications Network					67980
	Commission to pay monthly operating expenses and maintenance of					67981
	the television and radio transmission infrastructure.					67982
	TELECOMMUNICATIONS OPERATING SUBSIDY					67983
	The foregoing appropriation item 374-404, Telecommunications					67984
	Operating Subsidy, shall be distributed by the Ohio Educational					67985
	Telecommunications Network Commission to Ohio's qualified public					67986
	educational television stations, radio reading services, and					67987
	educational radio stations to support their operations. The funds					67988
	shall be distributed pursuant to an allocation developed by the					67989
	Ohio Educational Telecommunications Network Commission.					67990
	Section 42. ELC OHIO ELECTIONS COMMISSION					67991

General Revenue Fund				67992
GRF 051-321 Operating Expenses	\$	303,702	\$ 303,702	67993
TOTAL GRF General Revenue Fund	\$	303,702	\$ 303,702	67994
State Special Revenue Fund Group				67995
4P2 051-601 Ohio Elections				67996
Commission Fund	\$	312,716	\$ 321,766	67997
TOTAL SSR State Special				67998
Revenue Fund Group	\$	312,716	\$ 321,766	67999
TOTAL ALL BUDGET FUND GROUPS	\$	616,418	\$ 625,468	68000

Section 43. FUN STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS 68002
68003

General Services Fund Group				68004
4K9 881-609 Operating Expenses	\$	563,639	\$ 594,870	68005
TOTAL GSF General Services				68006
Fund Group	\$	563,639	\$ 594,870	68007
TOTAL ALL BUDGET FUND GROUPS	\$	563,639	\$ 594,870	68008

Section 44. ERB STATE EMPLOYMENT RELATIONS BOARD 68010

General Revenue Fund				68011
GRF 125-321 Operating Expenses	\$	3,268,338	\$ 3,268,338	68012
TOTAL GRF General Revenue Fund	\$	3,268,338	\$ 3,268,338	68013
General Services Fund Group				68014
572 125-603 Training and	\$	75,541	\$ 75,541	68015
Publications				
TOTAL GSF General Services				68016
Fund Group	\$	75,541	\$ 75,541	68017
TOTAL ALL BUDGET FUND GROUPS	\$	3,343,879	\$ 3,343,879	68018

Section 45. ENG STATE BOARD OF ENGINEERS AND SURVEYORS 68020

General Services Fund Group				68021
-----------------------------	--	--	--	-------

4K9 892-609 Operating Expenses	\$	999,150	\$	1,041,369	68022
TOTAL GSF General Services					68023
Fund Group	\$	999,150	\$	1,041,369	68024
TOTAL ALL BUDGET FUND GROUPS	\$	999,150	\$	1,041,369	68025
Section 46. EPA ENVIRONMENTAL PROTECTION AGENCY					68027
General Revenue Fund					68028
GRF 715-403 Clean Ohio	\$	788,985	\$	788,985	68029
GRF 715-501 Local Air Pollution Control	\$	1,119,878	\$	1,091,882	68030
GRF 717-321 Surface Water	\$	9,333,376	\$	9,358,950	68031
GRF 718-321 Groundwater	\$	1,195,001	\$	1,163,554	68032
GRF 719-321 Air Pollution Control	\$	2,841,739	\$	2,852,106	68033
GRF 721-321 Drinking Water	\$	2,979,503	\$	3,191,204	68034
GRF 723-321 Hazardous Waste	\$	110,184	\$	107,284	68035
GRF 724-321 Pollution Prevention	\$	765,137	\$	745,002	68036
GRF 725-321 Laboratory	\$	1,290,237	\$	1,293,971	68037
GRF 726-321 Corrective Actions	\$	1,253,593	\$	1,255,080	68038
TOTAL GRF General Revenue Fund	\$	21,677,633	\$	21,848,018	68039
General Services Fund Group					68040
199 715-602 Laboratory Services	\$	1,042,081	\$	1,045,654	68041
219 715-604 Central Support Indirect	\$	15,239,297	\$	15,544,407	68042
4A1 715-640 Operating Expenses	\$	3,308,758	\$	3,369,731	68043
TOTAL GSF General Services					68044
Fund Group	\$	19,590,136	\$	19,959,792	68045
Federal Special Revenue Fund Group					68046
3F2 715-630 Revolving Loan Fund - Operating	\$	80,000	\$	80,000	68047
3F3 715-632 Fed Supported Cleanup and Response	\$	2,792,648	\$	2,326,434	68048
3F4 715-633 Water Quality	\$	737,850	\$	712,850	68049

		Management					
3F5	715-641	Nonpoint Source	\$	7,090,002	\$	7,155,000	68050
		Pollution Management					
3J1	715-620	Urban Stormwater	\$	850,000	\$	956,001	68051
3K2	715-628	Clean Water Act 106	\$	4,125,992	\$	4,125,992	68052
3K4	715-634	DOD Monitoring and	\$	1,462,173	\$	1,450,333	68053
		Oversight					
3K6	715-639	Remedial Action Plan	\$	416,000	\$	385,001	68054
3N1	715-655	Pollution Prevention	\$	10,172	\$	0	68055
		Grants					
3N4	715-657	DOE Monitoring and	\$	3,362,932	\$	3,427,442	68056
		Oversight					
3V7	715-606	Agencywide Grants	\$	100,268	\$	0	68057
352	715-611	Wastewater Pollution	\$	252,000	\$	265,002	68058
353	715-612	Public Water Supply	\$	2,480,989	\$	2,484,114	68059
354	715-614	Hazardous Waste	\$	4,195,192	\$	4,203,891	68060
		Management - Federal					
357	715-619	Air Pollution Control	\$	5,447,334	\$	5,599,501	68061
		- Federal					
362	715-605	Underground Injection	\$	101,874	\$	101,874	68062
		Control - Federal					
TOTAL FED		Federal Special Revenue					68063
Fund Group			\$	33,505,426	\$	33,273,435	68064
State Special Revenue Fund Group							68065
3T3	715-669	Drinking Water SRF	\$	3,631,132	\$	3,716,777	68066
4J0	715-638	Underground Injection	\$	379,488	\$	394,385	68067
		Control					
4K2	715-648	Clean Air - Non Title	\$	3,092,801	\$	3,370,002	68068
		V					
4K3	715-649	Solid Waste	\$	14,286,500	\$	14,698,987	68069
4K4	715-650	Surface Water	\$	9,380,180	\$	9,380,181	68070
		Protection					
4K5	715-651	Drinking Water	\$	6,294,334	\$	6,255,946	68071

		Protection					
4P5	715-654	Cozart Landfill	\$	146,792	\$	149,728	68072
4R5	715-656	Scrap Tire Management	\$	5,800,000	\$	6,000,000	68073
4R9	715-658	Voluntary Action	\$	603,435	\$	795,671	68074
		Program					
4T3	715-659	Clean Air - Title V	\$	16,950,003	\$	16,650,001	68075
		Permit Program					
4U7	715-660	Construction &	\$	220,000	\$	220,000	68076
		Demolition Debris					
5H4	715-664	Groundwater Support	\$	1,768,661	\$	1,797,036	68077
5N2	715-613	Dredge and Fill	\$	30,000	\$	30,000	68078
5S1	715-607	Clean Ohio - Operating	\$	206,735	\$	208,174	68079
500	715-608	Immediate Removal	\$	475,024	\$	482,000	68080
		Special Account					
503	715-621	Hazardous Waste	\$	11,051,591	\$	11,465,671	68081
		Facility Management					
503	715-662	Hazardous Waste	\$	566,350	\$	576,619	68082
		Facility Board					
505	715-623	Hazardous Waste	\$	10,862,544	\$	11,557,987	68083
		Cleanup					
505	715-674	Clean Ohio	\$	999,896	\$	1,179,249	68084
		Environmental Review					
541	715-670	Site Specific Cleanup	\$	344,448	\$	345,075	68085
542	715-671	Risk Management	\$	142,087	\$	146,188	68086
		Reporting					
6A1	715-645	Environmental	\$	1,500,000	\$	1,500,000	68087
		Education					
602	715-626	Motor Vehicle	\$	1,444,464	\$	1,437,398	68088
		Inspection and					
		Maintenance					
644	715-631	ER Radiological Safety	\$	281,424	\$	286,114	68089
660	715-629	Infectious Waste	\$	160,000	\$	160,000	68090
		Management					

676	715-642	Water Pollution Control Loan Administration	\$	4,858,798	\$	4,964,625	68091
678	715-635	Air Toxic Release	\$	314,081	\$	210,662	68092
679	715-636	Emergency Planning	\$	2,798,648	\$	2,828,647	68093
696	715-643	Air Pollution Control Administration	\$	750,002	\$	750,000	68094
699	715-644	Water Pollution Control Administration	\$	625,000	\$	625,000	68095
TOTAL SSR State Special Revenue			\$	99,964,418	\$	102,182,123	68096
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	174,737,613	\$	177,263,368	68097
CENTRAL SUPPORT INDIRECT							68098
Notwithstanding any other provision of law to the contrary,							68099
the Director of Environmental Protection, with the approval of the							68100
Director of Budget and Management, shall utilize a methodology for							68101
determining each division's payments into the Central Support							68102
Indirect Fund (Fund 219). The methodology used shall contain the							68103
characteristics of administrative ease and uniform application.							68104
Payments to the Central Support Indirect Fund (Fund 219) shall be							68105
made using an intrastate transfer voucher.							68106
CLEAN OHIO - OPERATING							68107
The foregoing appropriation item 715-607, Clean Ohio -							68108
Operating, shall be used by the Ohio Environmental Protection							68109
Agency in administering sections 122.65 to 122.658 of the Revised							68110
Code.							68111
Section 47. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION							68112
General Revenue Fund							68113
GRF	172-321	Operating Expenses	\$	437,131	\$	439,109	68114
TOTAL GRF General Revenue Fund			\$	437,131	\$	439,109	68115

TOTAL ALL BUDGET FUND GROUPS \$ 437,131 \$ 439,109 68116

Section 48. ETH OHIO ETHICS COMMISSION 68118

General Revenue Fund 68119

GRF 146-321 Operating Expenses \$ 1,286,869 \$ 1,351,213 68120

TOTAL GRF General Revenue Fund \$ 1,286,869 \$ 1,351,213 68121

General Services Fund Group 68122

4M6 146-601 Operating Expenses \$ 409,543 \$ 383,543 68123

TOTAL GSF General Services 68124

Fund Group \$ 409,543 \$ 383,543 68125

TOTAL ALL BUDGET FUND GROUPS \$ 1,696,412 \$ 1,734,756 68126

Section 49. EXP OHIO EXPOSITIONS COMMISSION 68128

General Revenue Fund 68129

GRF 723-403 Junior Fair Subsidy \$ 465,412 \$ 465,412 68130

TOTAL GRF General Revenue Fund \$ 465,412 \$ 465,412 68131

State Special Revenue Fund Group 68132

4N2 723-602 Ohio State Fair \$ 520,000 \$ 520,000 68133

Harness Racing

506 723-601 Operating Expenses \$ 13,211,481 \$ 13,643,315 68134

640 723-603 State Fair Reserve \$ 125,000 \$ 0 68135

TOTAL SSR State Special Revenue 68136

Fund Group \$ 13,856,481 \$ 14,163,315 68137

TOTAL ALL BUDGET FUND GROUPS \$ 14,321,893 \$ 14,628,727 68138

STATE FAIR RESERVE 68139

The foregoing appropriation item 723-603, State Fair Reserve, 68140

shall serve as a budget reserve fund for the Ohio Expositions 68141

Commission in the event of a significant decline in attendance due 68142

to inclement weather or extraordinary circumstances during the 68143

Ohio State Fair resulting in a loss of revenue. The State Fair 68144

Reserve may be used by the Ohio Expositions Commission to pay 68145

bills resulting from the Ohio State Fair only if all the following 68146
criteria are met: 68147

(A) Admission revenues for the 2003 Ohio State Fair are less 68148
than \$2,542,500 or admission revenues for the 2004 Ohio State Fair 68149
are less than \$2,619,000 due to inclement weather or extraordinary 68150
circumstances. These amounts are ninety per cent of the projected 68151
admission revenues for each year. 68152

(B) The Ohio Expositions Commission declares a state of 68153
fiscal exigency and requests release of funds by the Director of 68154
Budget and Management. 68155

(C) The Director of Budget and Management releases the funds. 68156
The Director of Budget and Management may approve or disapprove 68157
the request for release of funds, may increase or decrease the 68158
amount of release, and may place such conditions as the director 68159
considers necessary on the use of the released funds. The Director 68160
of Budget and Management may transfer appropriation authority from 68161
fiscal year 2004 to fiscal year 2005 as needed. 68162

In the event that the Ohio Expositions Commission faces a 68163
temporary cash shortage that will preclude it from meeting current 68164
obligations, the Commission may request the Director of Budget and 68165
Management to approve use of the State Fair Reserve to meet those 68166
obligations. The request shall include a plan describing how the 68167
Commission will eliminate the cash shortage. If the Director of 68168
Budget and Management approves the expenditures, the Commission 68169
shall reimburse Fund 640 by the thirtieth day of June of that same 68170
fiscal year through an intrastate transfer voucher. The amount 68171
reimbursed is hereby appropriated. 68172

Of the foregoing appropriation item 723-603, State Fair 68173
Reserve, up to \$125,000 shall be transferred in fiscal year 2004 68174
to appropriation item 723-403, Junior Fair Subsidy. 68175

Section 50. GOV OFFICE OF THE GOVERNOR	68176
General Revenue Fund	68177
GRF 040-321 Operating Expenses \$ 4,112,358 \$ 4,235,726	68178
GRF 040-403 Federal Relations \$ 510,000 \$ 510,000	68179
GRF 040-408 Office of Veterans' Affairs \$ 276,723 \$ 285,025	68180
TOTAL GRF General Revenue Fund \$ 4,899,081 \$ 5,030,751	68181
General Services Fund Group	68182
412 040-607 Federal Relations \$ 500,000 \$ 500,000	68183
TOTAL GSF General Services Fund \$ 500,000 \$ 500,000	68184
Group	
TOTAL ALL BUDGET FUND GROUPS \$ 5,399,081 \$ 5,530,751	68185
APPOINTMENT OF LEGAL COUNSEL FOR THE GOVERNOR	68186
The Governor may expend a portion of the foregoing	68187
appropriation item 040-321, Operating Expenses, to hire or appoint	68188
legal counsel to be used in proceedings involving the Governor in	68189
the Governor's official capacity or the Governor's office only,	68190
without the approval of the Attorney General, notwithstanding	68191
sections 109.02 and 109.07 of the Revised Code.	68192
FEDERAL RELATIONS	68193
A portion of the foregoing appropriation items 040-403,	68194
Federal Relations, and 040-607, Federal Relations, may be used to	68195
support Ohio's membership in national or regional associations.	68196
The Office of the Governor may charge any state agency of the	68197
executive branch using an intrastate transfer voucher such amounts	68198
necessary to defray the costs incurred for the conduct of federal	68199
relations associated with issues that can be attributed to the	68200
agency. Amounts collected shall be deposited to the Office of the	68201
Governor Federal Relations Fund (Fund 412).	68202

Section 51. DOH DEPARTMENT OF HEALTH				68203
General Revenue Fund				68204
GRF 440-407	Animal Borne Disease and Prevention	\$ 2,690,101	\$ 2,800,536	68205
GRF 440-412	Cancer Incidence Surveillance System	\$ 1,038,815	\$ 1,072,556	68206
GRF 440-413	Healthy Communities	\$ 4,139,009	\$ 4,257,173	68207
GRF 440-416	Child and Family Health Services	\$ 9,099,971	\$ 9,099,971	68208
GRF 440-418	Immunizations	\$ 8,431,975	\$ 8,600,615	68209
GRF 440-419	Sexual Assault Prevention	\$ 38,671	\$ 39,689	68210
GRF 440-444	AIDS Prevention and Treatment	\$ 7,589,816	\$ 8,083,676	68211
GRF 440-446	Infectious Disease Prevention	\$ 439,330	\$ 454,444	68212
GRF 440-451	Lab and Public Health Prevention Programs	\$ 6,085,250	\$ 6,272,279	68213
GRF 440-452	Child and Family Health Services Match	\$ 1,024,017	\$ 1,025,347	68214
GRF 440-453	Health Care Quality Assurance	\$ 10,453,728	\$ 10,784,109	68215
GRF 440-454	Local Environmental Health	\$ 1,117,058	\$ 1,146,454	68216
GRF 440-459	Help Me Grow	\$ 9,861,089	\$ 10,120,591	68217
GRF 440-461	Center for Vital and Health Stats	\$ 4,667,175	\$ 4,471,099	68218
GRF 440-504	Poison Control Network	\$ 300,086	\$ 307,983	68219
GRF 440-505	Medically Handicapped Children	\$ 5,832,257	\$ 5,985,738	68220
GRF 440-507	Targeted Health Care Services Over 21	\$ 731,023	\$ 750,261	68221

GRF 440-508	Migrant Health	\$	91,301	\$	93,704	68222
TOTAL GRF	General Revenue Fund	\$	73,630,672	\$	75,366,225	68223
General Services Fund Group						68224
142 440-618	General Operations -	\$	1,328,346	\$	1,417,817	68225
General Services Fund						
211 440-613	Central Support	\$	26,149,512	\$	26,276,178	68226
Indirect Costs						
473 440-622	Lab Operating Expenses	\$	4,154,045	\$	4,154,045	68227
683 440-633	Employee Assistance	\$	1,192,234	\$	1,192,214	68228
Program						
698 440-634	Nurse Aide Training	\$	170,000	\$	170,000	68229
TOTAL GSF	General Services					68230
Fund Group		\$	32,994,137	\$	33,210,254	68231
Federal Special Revenue Fund Group						68232
320 440-601	Maternal Child Health	\$	34,451,205	\$	35,136,169	68233
Block Grant						
387 440-602	Preventive Health	\$	8,200,000	\$	8,200,000	68234
Block Grant						
389 440-604	Women, Infants, and	\$	210,000,000	\$	220,000,000	68235
Children						
391 440-606	Medicaid/Medicare	\$	26,294,274	\$	26,820,159	68236
392 440-618	General Operations -	\$	114,474,764	\$	115,319,323	68237
Federal Fund						
TOTAL FED	Federal Special Revenue					68238
Fund Group		\$	393,420,243	\$	405,475,651	68239
State Special Revenue Fund Group						68240
4D6 440-608	Genetics Services	\$	2,300,000	\$	2,300,000	68241
4F9 440-610	Sickle Cell Disease	\$	1,035,344	\$	1,035,344	68242
Control						
4G0 440-636	Heirloom Birth	\$	5,000	\$	5,000	68243
Certificate						
4G0 440-637	Birth Certificate	\$	5,000	\$	5,000	68244

		Surcharge				
4L3	440-609	Miscellaneous Expenses	\$	256,082	\$	144,119 68245
4T4	440-603	Child Highway Safety	\$	233,894	\$	233,894 68246
4V6	440-641	Save Our Sight	\$	1,733,327	\$	1,767,994 68247
470	440-618	General Operations -	\$	14,454,867	\$	15,953,072 68248
		State Special Revenue				
471	440-619	Certificate of Need	\$	475,000	\$	483,572 68249
477	440-627	Medically Handicapped	\$	4,640,498	\$	4,733,008 68250
		Children Audit				
5B5	440-616	Quality, Monitoring,	\$	838,479	\$	838,479 68251
		and Inspection				
5C0	440-615	Alcohol Testing and	\$	1,455,405	\$	1,455,405 68252
		Permit				
5D6	440-620	Second Chance Trust	\$	887,018	\$	825,951 68253
5G4	440-639	Adoption Services	\$	20,000	\$	20,000 68254
5L1	440-623	Nursing Facility	\$	586,153	\$	617,517 68255
		Technical Assistance				
		Program				
610	440-626	Radiation Emergency	\$	923,315	\$	923,315 68256
		Response				
666	440-607	Medically Handicapped	\$	14,320,687	\$	14,320,687 68257
		Children - County				
		Assessments				
TOTAL SSR		State Special Revenue				68258
Fund Group			\$	44,858,390	\$	45,662,357 68259
		Holding Account Redistribution Fund Group				68260
R14	440-631	Vital Statistics	\$	70,000	\$	70,000 68261
R48	440-625	Refunds, Grants	\$	20,400	\$	20,400 68262
		Reconciliation, and				
		Audit Settlements				
TOTAL 090		Holding Account				68263
Redistribution Fund Group			\$	90,400	\$	90,400 68264
TOTAL ALL BUDGET FUND GROUPS			\$	544,993,842	\$	559,804,887 68265

Section 51.01. CANCER REGISTRY SYSTEM 68267

Of the foregoing appropriation item 440-412, Cancer Incidence 68268
Surveillance System, not more than \$50,000 in each fiscal year 68269
shall be provided to Health Comp, Inc. 68270

The remaining moneys in appropriation item 440-412, Cancer 68271
Incidence Surveillance System, shall be used to maintain and 68272
operate the Ohio Cancer Incidence Surveillance System pursuant to 68273
sections 3701.261 to 3701.263 of the Revised Code. 68274

CHILD AND FAMILY HEALTH SERVICES 68275

Of the foregoing appropriation item 440-416, Child and Family 68276
Health Services, not more than \$1,700,000 in each fiscal year 68277
shall be used for family planning services. None of the funds 68278
received through these family planning grants shall be used to 68279
provide abortion services. None of the funds received through 68280
these family planning grants shall be used for counseling for or 68281
referrals for abortion, except in the case of a medical emergency. 68282
These funds shall be distributed on the basis of the relative need 68283
in the community served by the Director of Health to family 68284
planning programs, which shall include family planning programs 68285
funded under Title V of the "Social Security Act," 49 Stat. 620 68286
(1935), 42 U.S.C.A. 301, as amended, and Title X of the "Public 68287
Health Services Act," 58 Stat. 682 (1946), 42 U.S.C.A. 201, as 68288
amended, as well as to other family planning programs that the 68289
Department of Health also determines will provide services that 68290
are physically and financially separate from abortion-providing 68291
and abortion-promoting activities, and that do not include 68292
counseling for or referrals for abortion, other than in the case 68293
of medical emergency, with state moneys, but that otherwise 68294
substantially comply with the quality standards for such programs 68295
under Title V and Title X. 68296

The Director of Health, by rule, shall provide reasonable methods by which a grantee wishing to be eligible for federal funding may comply with these requirements for state funding without losing its eligibility for federal funding, while ensuring that a family planning program receiving a family planning grant must be organized so that it is physically and financially separate from the provision of abortion services and from activities promoting abortion as a method of family planning.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$270,000 shall be used in each fiscal year for the OPTIONS dental care access program.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$900,000 in each fiscal year shall be used by federally qualified health centers and federally designated look-alikes to provide services to uninsured low-income persons.

SEXUAL ASSAULT PREVENTION AND INTERVENTION

The foregoing appropriation item 440-419, Sexual Assault Prevention and Intervention, shall be used for the following purposes:

(A) Funding of new services in counties with no services for sexual assault;

(B) Expansion of services provided in currently funded projects so that comprehensive crisis intervention and prevention services are offered;

(C) Start-up funding for Sexual Assault Nurse Examiner (SANE) projects;

(D) Statewide expansion of local outreach and public awareness efforts.

HIV/AIDS PREVENTION/TREATMENT

Of the foregoing appropriation item 440-444, AIDS Prevention and Treatment, up to \$6.4 million in fiscal year 2004 and up to \$6.7 million in fiscal year 2005 shall be used to assist persons with HIV/AIDS in acquiring HIV-related medications.

INFECTIOUS DISEASE PREVENTION

Of the foregoing appropriation item 440-446, Infectious Disease Prevention, not more than \$200,000 in each fiscal year shall be used to reimburse boards of county commissioners pursuant to division (A) of section 339.77 of the Revised Code.

Of the foregoing appropriation item 440-446, Infectious Disease Prevention, not more than \$60,000 shall be used by the Director of Health to reimburse Boards of County Commissioners for the cost of detaining indigent persons with tuberculosis. Any portion of the \$60,000 allocated for detainment not used for that purpose shall be used to make payments to counties pursuant to section 339.77 of the Revised Code.

Of the foregoing appropriation item 440-446, Infectious Disease Prevention, not more than \$250,000 in each fiscal year shall be used for the purchase of drugs for sexually transmitted diseases.

HELP ME GROW

The foregoing appropriation item 440-459, Help Me Grow, shall be used by the Department of Health to distribute subsidies to counties to implement the Help Me Grow program. Appropriation item 440-459 may be used in conjunction with Temporary Assistance for Needy Families from the Department of Job and Family Services, Early Intervention funding from the Department of Mental Retardation and Developmental Disabilities, and in conjunction with other early childhood funds and services to promote the optimal development of young children. Local contracts shall be developed between local departments of job and family services and

family and children first councils for the administration of TANF 68358
funding for the Help Me Grow Program. The Department of Health 68359
shall enter into an interagency agreement with the Department of 68360
Education, Department of Mental Retardation and Developmental 68361
Disabilities, Department of Job and Family Services, and 68362
Department of Mental Health to ensure that all early childhood 68363
programs and initiatives are coordinated and school linked. 68364

POISON CONTROL NETWORK 68365

The foregoing appropriation item 440-504, Poison Control 68366
Network, shall be used in each fiscal year by the Department of 68367
Health for grants to the consolidated Ohio Poison Control Center 68368
to provide poison control services to Ohio citizens. 68369

TARGETED HEALTH CARE SERVICES OVER 21 68370

In each fiscal year, appropriation item 440-507, Targeted 68371
Health Care Services Over 21, shall be used to administer the 68372
cystic fibrosis program and implement the Hemophilia Insurance 68373
Premium Payment program. 68374

MATERNAL CHILD HEALTH BLOCK GRANT 68375

Of the foregoing appropriation item 440-601, Maternal Child 68376
Health Block Grant (Fund 320), \$2,091,299 shall be used in each 68377
fiscal year for the purposes of abstinence-only education. The 68378
Director of Health shall develop guidelines for the establishment 68379
of abstinence programs for teenagers with the purpose of 68380
decreasing unplanned pregnancies and abortion. Such guidelines 68381
shall be pursuant to Title V of the "Social Security Act," 42 68382
U.S.C. 510, and shall include, but are not limited to, advertising 68383
campaigns and direct training in schools and other locations. 68384

GENETICS SERVICES 68385

The foregoing appropriation item 440-608, Genetics Services 68386
(Fund 4D6), shall be used by the Department of Health to 68387

administer programs authorized by sections 3701.501 and 3701.502 68388
of the Revised Code. None of these funds shall be used to counsel 68389
or refer for abortion, except in the case of a medical emergency. 68390

SAFETY AND QUALITY OF CARE STANDARDS 68391

The Department of Health may use Fund 471, Certificate of 68392
Need, for administering sections 3702.11 to 3702.20 and 3702.30 of 68393
the Revised Code in each fiscal year. 68394

MEDICALLY HANDICAPPED CHILDREN AUDIT 68395

The Medically Handicapped Children Audit Fund (Fund 477) 68396
shall receive revenue from audits of hospitals and recoveries from 68397
third-party payers. Moneys may be expended for payment of audit 68398
settlements and for costs directly related to obtaining recoveries 68399
from third-party payers and for encouraging Medically Handicapped 68400
Children's Program recipients to apply for third-party benefits. 68401
Moneys also may be expended for payments for diagnostic and 68402
treatment services on behalf of medically handicapped children, as 68403
defined in division (A) of section 3701.022 of the Revised Code, 68404
and Ohio residents who are twenty-one or more years of age and who 68405
are suffering from cystic fibrosis. Moneys may also be expended 68406
for administrative expenses incurred in operating the Medically 68407
Handicapped Children's Program. 68408

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND 68409
PERMIT FUND 68410

The Director of Budget and Management, pursuant to a plan 68411
submitted by the Department of Health, or as otherwise determined 68412
by the Director of Budget and Management, shall set a schedule to 68413
transfer cash from the Liquor Control Fund (Fund 043) to the 68414
Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating 68415
needs of the Alcohol Testing and Permit program. 68416

The Director of Budget and Management shall transfer to the 68417
Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control 68418

Fund (Fund 043) established in section 4301.12 of the Revised Code 68419
such amounts at such times as determined by the transfer schedule. 68420

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS 68421

The foregoing appropriation item 440-607, Medically 68422
Handicapped Children - County Assessments (Fund 666), shall be 68423
used to make payments pursuant to division (E) of section 3701.023 68424
of the Revised Code. 68425

NURSING FACILITY TECHNICAL ASSISTANCE PROGRAM 68426

The Director of Budget and Management shall transfer, by 68427
intrastate transfer voucher, each fiscal year, cash from Fund 4E3, 68428
Resident Protection Fund, in the Ohio Department of Job and Family 68429
Services, to Fund 5L1, Nursing Facility Technical Assistance Fund, 68430
in the Ohio Department of Health, to be used in accordance with 68431
section 3721.026 of the Revised Code. The transfers shall equal 68432
the amount appropriated per fiscal year in Fund 5L1, Nursing 68433
Facility Technical Assistance Fund. 68434

Section 52. HEF HIGHER EDUCATIONAL FACILITY COMMISSION 68435

Agency Fund Group 68436

461 372-601 Operating Expenses	\$	15,290	\$	16,819	68437
TOTAL AGY Agency Fund Group	\$	15,290	\$	16,819	68438
TOTAL ALL BUDGET FUND GROUPS	\$	15,290	\$	16,819	68439

Section 53. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS 68441

General Revenue Fund 68442

GRF 148-100 Personal Services	\$	159,419	\$	159,419	68443
GRF 148-200 Maintenance	\$	33,631	\$	33,631	68444
TOTAL GRF General Revenue Fund	\$	193,050	\$	193,050	68445

General Services Fund Group 68446

601 148-602 Gifts and	\$	8,485	\$	8,485	68447
Miscellaneous					

TOTAL GSF General Services				68448
Fund Group	\$	8,485	\$ 8,485	68449
TOTAL ALL BUDGET FUND GROUPS	\$	201,535	\$ 201,535	68450

Section 54. OHS OHIO HISTORICAL SOCIETY 68452

General Revenue Fund				68453
GRF 360-501 Operating Subsidy	\$	3,922,752	\$ 3,922,752	68454
GRF 360-502 Site Operations	\$	8,240,438	\$ 8,240,438	68455
GRF 360-503 Ohio Bicentennial Commission	\$	1,847,239	\$ 98,164	68456
TOTAL GRF General Revenue Fund	\$	14,010,429	\$ 12,261,354	68457
TOTAL ALL BUDGET FUND GROUPS	\$	14,010,429	\$ 12,261,354	68458

SUBSIDY APPROPRIATION 68459

Upon approval by the Director of Budget and Management, the 68460
foregoing appropriation items shall be released to the Ohio 68461
Historical Society in quarterly amounts that in total do not 68462
exceed the annual appropriations. The funds and fiscal records of 68463
the society for fiscal years 2004 and 2005 shall be examined by 68464
independent certified public accountants approved by the Auditor 68465
of State, and a copy of the audited financial statements shall be 68466
filed with the Office of Budget and Management. The society shall 68467
prepare and submit to the Office of Budget and Management the 68468
following: 68469

(A) An estimated operating budget for each fiscal year of the 68470
biennium. The operating budget shall be submitted at or near the 68471
beginning of each year. 68472

(B) Financial reports, indicating actual receipts and 68473
expenditures for the fiscal year to date. These reports shall be 68474
filed at least semiannually during the fiscal biennium. 68475

The foregoing appropriations shall be considered to be the 68476
contractual consideration provided by the state to support the 68477

state's offer to contract with the Ohio Historical Society under 68478
section 149.30 of the Revised Code. 68479

SITE OPERATIONS 68480

Of the foregoing appropriation item 360-502, Site Operations, 68481
funds shall be distributed to the Afro-American Museum, the Hayes 68482
Presidential Center, as well as other sites controlled by the Ohio 68483
Historical Society in each fiscal year. 68484

HAYES PRESIDENTIAL CENTER 68485

If a United States government agency, including, but not 68486
limited to, the National Park Service, chooses to take over the 68487
operations or maintenance of the Hayes Presidential Center, in 68488
whole or in part, the Ohio Historical Society shall make 68489
arrangements with the National Park Service or other United States 68490
government agency for the efficient transfer of operations or 68491
maintenance. 68492

Section 55. REP OHIO HOUSE OF REPRESENTATIVES 68493

General Revenue Fund 68494

GRF 025-321 Operating Expenses \$ 19,018,547 \$ 19,969,473 68495

TOTAL GRF General Revenue Fund \$ 19,018,547 \$ 19,969,473 68496

General Services Fund Group 68497

103 025-601 House Reimbursement \$ 1,351,875 \$ 1,419,469 68498

4A4 025-602 Miscellaneous Sales \$ 35,690 \$ 37,474 68499

TOTAL GSF General Services 68500

Fund Group \$ 1,387,565 \$ 1,456,943 68501

TOTAL ALL BUDGET FUND GROUPS \$ 20,406,112 \$ 21,426,416 68502

Section 56. IGO OFFICE OF THE INSPECTOR GENERAL 68504

General Revenue Fund 68505

GRF 965-321 Operating Expenses \$ 645,966 \$ 651,009 68506

TOTAL GRF General Revenue Fund \$ 645,966 \$ 651,009 68507

State Special Revenue Fund Group				68508
4Z3 965-602 Special Investigations	\$	100,000	\$ 100,000	68509
TOTAL SSR State Special Revenue Fund Group	\$	100,000	\$ 100,000	68510
TOTAL ALL BUDGET FUND GROUPS	\$	745,966	\$ 751,009	68511
SPECIAL INVESTIGATIONS				68512
Of the foregoing appropriation item 965-602, Special Investigations, up to \$100,000 in each fiscal year may be used for investigative costs, pursuant to section 121.481 of the Revised Code.				68513 68514 68515 68516
Section 57. INS DEPARTMENT OF INSURANCE				68517
Federal Special Revenue Fund Group				68518
3U5 820-602 OSHIIP Operating Grant	\$	560,559	\$ 560,559	68519
TOTAL FED Federal Special Revenue Fund Group	\$	560,559	\$ 560,559	68520 68521
State Special Revenue Fund Group				68522
554 820-601 Operating Expenses - OSHIIP	\$	506,515	\$ 561,411	68523
554 820-606 Operating Expenses	\$	22,688,654	\$ 23,888,637	68524
555 820-605 Examination	\$	7,124,247	\$ 7,320,792	68525
TOTAL SSR State Special Revenue Fund Group	\$	30,319,416	\$ 31,770,840	68526 68527
TOTAL ALL BUDGET FUND GROUPS	\$	30,879,975	\$ 32,331,399	68528
MARKET CONDUCT EXAMINATION				68529
When conducting a market conduct examination of any insurer doing business in this state, the Superintendent of Insurance may assess the costs of the examination against the insurer. The superintendent may enter into consent agreements to impose administrative assessments or fines for conduct discovered that may be violations of statutes or regulations administered by the				68530 68531 68532 68533 68534 68535

superintendent. All costs, assessments, or fines collected shall 68536
 be deposited to the credit of the Department of Insurance 68537
 Operating Fund (Fund 554). 68538

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 68539

The Superintendent of Insurance may transfer funds from the 68540
 Department of Insurance Operating Fund (Fund 554), established by 68541
 section 3901.021 of the Revised Code, to the Superintendent's 68542
 Examination Fund (Fund 555), established by section 3901.071 of 68543
 the Revised Code, only for the expenses incurred in examining 68544
 domestic fraternal benefit societies as required by section 68545
 3921.28 of the Revised Code. 68546

Section 58. JFS DEPARTMENT OF JOB AND FAMILY SERVICES 68547

General Revenue Fund 68548

GRF 600-321 Support Services 68549

State \$ 65,320,694 \$ 58,611,047 68550

Federal \$ 7,516,833 \$ 7,125,883 68551

Support Services Total \$ 72,837,527 \$ 65,736,930 68552

GRF 600-410 TANF State \$ 272,619,061 \$ 272,619,061 68553

GRF 600-413 Child Care \$ 84,120,606 \$ 84,120,606 68554

Match/Maintenance of
Effort

GRF 600-416 Computer Projects 68555

State \$ 127,049,693 \$ 131,432,770 68556

Federal \$ 32,922,220 \$ 34,392,072 68557

Computer Projects \$ 159,971,913 \$ 165,824,842 68558

Total

GRF 600-420 Child Support \$ 5,708,784 \$ 5,812,003 68559

Administration

GRF 600-421 Office of Family \$ 4,912,463 \$ 4,864,932 68560

Stability

GRF 600-422 Local Operations \$ 2,305,232 \$ 2,305,232 68561

GRF 600-423	Office of Children and Families	\$	5,502,484	\$	5,621,561	68562
GRF 600-424	Office of Workforce Development	\$	877,971	\$	899,375	68563
GRF 600-425	Office of Ohio Health Plans					68564
	State	\$	21,944,901	\$	22,603,740	68565
	Federal	\$	21,848,555	\$	22,495,502	68566
	Office of Ohio Health Plans Total	\$	43,793,456	\$	45,099,242	68567
GRF 600-435	Unemployment Compensation Review Commission	\$	3,188,473	\$	3,191,815	68568
GRF 600-502	Child Support Match	\$	16,814,103	\$	16,814,103	68569
GRF 600-511	Disability Financial Assistance	\$	22,839,371	\$	22,839,371	68570
GRF 600-521	Family Stability Subsidy	\$	55,206,401	\$	55,206,401	68571
GRF 600-523	Children and Families Subsidy	\$	69,846,563	\$	69,846,563	68572
GRF 600-525	Health Care/Medicaid					68573
	State	\$	3,651,294,321	\$	3,842,465,911	68574
	Federal	\$	5,188,691,539	\$	5,463,149,039	68575
	Health Care Total	\$	8,839,985,860	\$	9,305,614,950	68576
GRF 600-528	Adoption Services					68577
	State	\$	33,395,955	\$	36,017,981	68578
	Federal	\$	37,368,248	\$	41,115,000	68579
	Adoption Services Total	\$	70,764,203	\$	77,132,981	68580
TOTAL GRF	General Revenue Fund					68581
	State	\$	4,442,947,076	\$	4,635,272,472	68582
	Federal	\$	5,288,347,395	\$	5,568,277,496	68583
	GRF Total	\$	9,731,294,471	\$	10,203,549,968	68584

General Services Fund Group					68585
4A8 600-658 Child Support	\$	27,255,646	\$	26,680,794	68586
Collections					
4R4 600-665 BCII Services/Fees	\$	136,974	\$	136,974	68587
5C9 600-671 Medicaid Program	\$	54,686,270	\$	55,137,078	68588
Support					
5N1 600-677 County Technologies	\$	5,000,000	\$	5,000,000	68589
613 600-645 Training Activities	\$	135,000	\$	135,000	68590
TOTAL GSF General Services					68591
Fund Group	\$	87,213,890	\$	87,089,846	68592
Federal Special Revenue Fund Group					68593
3A2 600-641 Emergency Food	\$	2,083,500	\$	2,187,675	68594
Distribution					
3D3 600-648 Children's Trust Fund	\$	2,040,524	\$	2,040,524	68595
Federal					
3F0 600-623 Health Care Federal	\$	391,658,105	\$	394,221,409	68596
3F0 600-650 Hospital Care	\$	298,128,308	\$	305,879,644	68597
Assurance Match					
3G5 600-655 Interagency	\$	1,180,523,642	\$	1,245,244,536	68598
Reimbursement					
3H7 600-617 Child Care Federal	\$	224,539,425	\$	235,045,596	68599
3N0 600-628 IV-E Foster Care	\$	173,963,142	\$	173,963,142	68600
Maintenance					
3S5 600-622 Child Support Projects	\$	534,050	\$	534,050	68601
3V0 600-662 WIA Ohio Option #7	\$	87,407,014	\$	89,352,850	68602
3V0 600-688 Workforce Investment	\$	93,636,390	\$	94,932,750	68603
Act					
3V4 600-678 Federal Unemployment	\$	139,590,682	\$	142,411,608	68604
Programs					
3V4 600-679 Unemployment	\$	3,097,320	\$	2,860,297	68605
Compensation Review					
Commission - Federal					

3V6	600-689	TANF Block Grant	\$	761,095,609	\$	816,909,688	68606
3W3	600-659	TANF/Title XX	\$	72,796,826	\$	72,796,826	68607
316	600-602	State and Local Training	\$	11,212,594	\$	11,249,282	68608
327	600-606	Child Welfare	\$	29,119,408	\$	28,665,728	68609
331	600-686	Federal Operating	\$	48,237,185	\$	47,340,081	68610
365	600-681	JOB Training Program	\$	5,000,000	\$	0	68611
384	600-610	Food Stamps and State Administration	\$	134,560,572	\$	135,141,694	68612
385	600-614	Refugee Services	\$	5,793,656	\$	5,841,407	68613
395	600-616	Special Activities/Child and Family Services	\$	3,975,821	\$	3,975,821	68614
396	600-620	Social Services Block Grant	\$	47,469,767	\$	47,486,134	68615
397	600-626	Child Support	\$	273,707,264	\$	272,212,680	68616
398	600-627	Adoption Maintenance/ Administration	\$	339,957,978	\$	340,104,370	68617
TOTAL FED Federal Special Revenue							68618
Fund Group			\$	4,330,128,782	\$	4,470,397,792	68619
State Special Revenue Fund Group							68620
198	600-647	Children's Trust Fund	\$	4,336,109	\$	4,336,109	68621
4A9	600-607	Unemployment Compensation Admin Fund	\$	8,001,000	\$	8,001,000	68622
4E3	600-605	Nursing Home Assessments	\$	4,759,913	\$	4,759,914	68623
4E7	600-604	Child and Family Services Collections	\$	300,000	\$	300,000	68624
4F1	600-609	Foundation Grants/Child and Family Services	\$	119,310	\$	119,310	68625
4J5	600-613	Nursing Facility Bed	\$	35,060,013	\$	35,064,238	68626

		Assessments				
4J5	600-618	Residential State	\$	15,700,000	\$	15,700,000 68627
		Supplement Payments				
4K1	600-621	ICF/MR Bed Assessments	\$	20,467,050	\$	20,428,726 68628
4R3	600-687	Banking Fees	\$	592,937	\$	592,937 68629
4Z1	600-625	HealthCare Compliance	\$	10,000,000	\$	10,000,000 68630
5A5	600-685	Unemployment Benefit	\$	7,000,000	\$	0 68631
		Automation				
5P5	600-692	Health Care Services	\$	385,100,993	\$	448,932,851 68632
5Q9	600-619	Supplemental Inpatient	\$	30,797,539	\$	30,797,539 68633
		Hospital Payments				
5R2	600-608	Medicaid-Nursing	\$	113,754,184	\$	113,754,184 68634
		Facilities				
5S3	600-629	MR/DD Medicaid	\$	1,620,960	\$	1,620,960 68635
		Administration and Oversight				
5T2	600-652	Child Support Special Payment	\$	1,500,000	\$	750,000 68636
5U3	600-654	Health Care Services Administration	\$	7,576,322	\$	6,119,127 68637
5U6	600-663	Children and Family Support	\$	4,929,718	\$	4,929,718 68638
651	600-649	Hospital Care	\$	208,634,072	\$	214,058,558 68639
		Assurance Program Fund				
TOTAL SSR		State Special Revenue				68640
Fund Group			\$	860,250,120	\$	920,265,171 68641
Agency Fund Group						68642
192	600-646	Support Intercept - Federal	\$	136,500,000	\$	136,500,000 68643
5B6	600-601	Food Stamp Intercept	\$	5,000,000	\$	5,000,000 68644
583	600-642	Support Intercept - State	\$	20,565,582	\$	20,565,582 68645
TOTAL AGY		Agency Fund Group	\$	162,065,582	\$	162,065,582 68646

Holding Account Redistribution Fund Group				68647	
R12 600-643 Refunds and Audit	\$	5,343,906	\$	5,343,906	68648
Settlements					
R13 600-644 Forgery Collections		700,000		700,000	68649
TOTAL 090 Holding Account	\$	6,043,906	\$	6,043,906	68650
Redistribution Fund Group					
TOTAL ALL BUDGET FUND GROUPS		\$15,176,996,751		\$15,849,412,265	68651

Section 58.01. HEALTH CARE/MEDICAID 68653

The foregoing appropriation item 600-525, Health 68654
Care/Medicaid, shall not be limited by the provisions of section 68655
131.33 of the Revised Code. 68656

Section 58.02. CHILD SUPPORT COLLECTIONS/TANF MOE 68657

The foregoing appropriation item 600-658, Child Support 68658
Collections, shall be used by the Department of Job and Family 68659
Services to meet the TANF maintenance of effort requirements of 68660
Pub. L. No. 104-193. After the state has met the maintenance of 68661
effort requirement, the Department of Job and Family Services may 68662
use funds from appropriation item 600-658 to support public 68663
assistance activities. 68664

Section 58.03. MEDICAID PROGRAM SUPPORT FUND - STATE 68665

The foregoing appropriation item 600-671, Medicaid Program 68666
Support, shall be used by the Department of Job and Family 68667
Services to pay for Medicaid services and contracts. The 68668
Department may also deposit to Fund 5C9 revenues received from 68669
other state agencies for Medicaid services under the terms of 68670
interagency agreements between the Department and other state 68671
agencies. 68672

Section 58.04. HEALTH CARE SERVICES ADMINISTRATION 68673

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.

Section 58.05. HEALTH CARE SERVICES ADMINISTRATION FUND 68678

Of the amount received by the Department of Job and Family Services during fiscal year 2004 and fiscal year 2005 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 \$350,000 into the state treasury to the credit of the Health Care Services Administration Fund (Fund 5U3).

HOSPITAL CARE ASSURANCE MATCH FUND 68686

Appropriation item 600-650, Hospital Care Assurance Match, shall be used by the Department of Job and Family Services in accordance with division (B) of section 5112.18 of the Revised Code.

Section 58.06. TANF FEDERAL BLOCK GRANT FUNDS AND TRANSFERS 68691

Upon the request of the Department of Job and Family Services, the Director of Budget and Management may seek Controlling Board approval to increase appropriations in appropriation item 600-689, TANF Block Grant, provided sufficient funds exist to do so without any corresponding decrease in other appropriation items. The Department of Job and Family Services shall provide the Director of Budget and Management and the Controlling Board with documentation to support the need for the increased appropriation.

All transfers of moneys from or charges against TANF Federal Block Grant awards for use in the Social Services Block Grant or

the Child Care and Development Block Grant shall be done after the 68703
Department of Job and Family Services gives written notice to the 68704
Director of Budget and Management. The Department of Job and 68705
Family Services shall first provide the Director of Budget and 68706
Management with documentation to support the need for such 68707
transfers or charges for use in the Social Services Block Grant or 68708
in the Child Care and Development Block Grant. 68709

Before the thirtieth day of September of each fiscal year, 68710
the Department of Job and Family Services shall file claims with 68711
the United States Department of Health and Human Services for 68712
reimbursement for all allowable expenditures for services provided 68713
by the Department of Job and Family Services, or other agencies 68714
that may qualify for Social Services Block Grant funding pursuant 68715
to Title XX of the Social Security Act. 68716

Section 58.07. PRESCRIPTION DRUG REBATE FUND 68717

The foregoing appropriation item 600-692, Health Care 68718
Services, shall be used by the Department of Job and Family 68719
Services in accordance with section 5111.081 of the Revised Code. 68720
Moneys recovered by the Department pursuant to the Department's 68721
rights of recovery under section 5101.58 of the Revised Code, that 68722
are not directed to the Health Care Services Administration Fund 68723
(Fund 5U3) pursuant to section 5111.94 of the Revised Code shall 68724
also be deposited into Fund 5P5. 68725

Section 58.08. ODJFS FUNDS 68726

AGENCY FUND GROUP 68727

The Agency Fund Group shall be used to hold revenues until 68728
the appropriate fund is determined or until they are directed to 68729
the appropriate governmental agency other than the Department of 68730
Job and Family Services. If it is determined that additional 68731
appropriation authority is necessary, such amounts are hereby 68732

appropriated. 68733

HOLDING ACCOUNT REDISTRIBUTION GROUP 68734

The foregoing appropriation items 600-643, Refunds and Audit 68735
Settlements, and 600-644, Forgery Collections, Holding Account 68736
Redistribution Fund Group, shall be used to hold revenues until 68737
they are directed to the appropriate accounts or until they are 68738
refunded. If it is determined that additional appropriation 68739
authority is necessary, such amounts are hereby appropriated. 68740

Section 58.09. CONSOLIDATED FUNDING ALLOCATION FOR COUNTY 68741
DEPARTMENTS OF JOB AND FAMILY SERVICES 68742

Using the foregoing appropriation items 600-521, Family 68743
Stability Subsidy; 600-659, TANF/Title XX; 600-610, Food Stamps 68744
and State Administration; 600-410, TANF State; 600-689, TANF Block 68745
Grant; 600-620, Social Services Block Grant; 600-523, Children and 68746
Families Subsidy; 600-413, Child Care Match/Maintenance of Effort; 68747
600-617, Child Care Federal; and 600-614, Refugees Services, the 68748
Department of Job and Family Services may establish a single 68749
allocation for county departments of job and family services. The 68750
county department is not required to use all the money from one or 68751
more of the appropriation items listed in this paragraph for the 68752
purpose for which the specific appropriation item is made so long 68753
as the county department uses the money for a purpose for which at 68754
least one of the other of those appropriation items is made. The 68755
county department may not use the money in the allocation for a 68756
purpose other than a purpose any of those appropriation items are 68757
made. If the spending estimates used in establishing the single 68758
allocation are not realized and the county department uses money 68759
in one or more of those appropriation items in a manner for which 68760
federal financial participation is not available, the department 68761
shall use state funds available in one or more of those 68762
appropriation items to ensure that the county department receives 68763

the full amount of its allocation. 68764

Section 58.10. TRANSFER OF FUNDS 68765

The Department of Job and Family Services shall transfer, 68766
through intrastate transfer vouchers, cash from State Special 68767
Revenue Fund 4K1, ICF/MR Bed Assessments, to fund 4K8, Home and 68768
Community-Based Services, in the Ohio Department of Mental 68769
Retardation and Developmental Disabilities. The sum of the 68770
transfers shall equal \$12,000,000 in fiscal year 2004 and 68771
\$12,000,000 in fiscal year 2005. The transfer may occur on a 68772
quarterly basis or on a schedule developed and agreed to by both 68773
departments. 68774

The Department of Job and Family Services shall transfer, 68775
through intrastate transfer vouchers, cash from the State Special 68776
Revenue Fund 4J5, Home and Community-Based Services for the Aged, 68777
to Fund 4J4, PASSPORT, in the Department of Aging. The sum of the 68778
transfers shall be \$33,268,052 in fiscal year 2004 and \$33,263,984 68779
in fiscal year 2005. The transfer may occur on a quarterly basis 68780
or on a schedule developed and agreed to by both departments. 68781

TRANSFERS OF IMD/DSH CASH 68782

The Department of Job and Family Services shall transfer, 68783
through intrastate transfer voucher, cash from fund 5C9, Medicaid 68784
Program Support, to the Department of Mental Health's Fund 4X5, 68785
OhioCare, in accordance with an interagency agreement which 68786
delegates authority from the Department of Job and Family Services 68787
to the Department of Mental Health to administer specified 68788
Medicaid services. 68789

Section 58.11. EMPLOYER SURCHARGE 68790

The surcharge and the interest on the surcharge amounts due 68791
for calendar years 1988, 1989, and 1990 as required by Am. Sub. 68792
H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the 68793

118th General Assembly, and section 4141.251 of the Revised Code 68794
as it existed prior to Sub. H.B. 478 of the 122nd General 68795
Assembly, again shall be assessed and collected by, accounted for, 68796
and made available to the Department of Job and Family Services in 68797
the same manner as set forth in section 4141.251 of the Revised 68798
Code as it existed prior to Sub. H.B. 478 of the 122nd General 68799
Assembly, notwithstanding the repeal of the surcharge for calendar 68800
years after 1990, pursuant to Sub. H.B. 478 of the 122nd General 68801
Assembly, except that amounts received by the Director on or after 68802
July 1, 2001, shall be deposited into the special administrative 68803
fund established pursuant to section 4141.11 of the Revised Code. 68804

Section 58.12. FUNDING FOR HABILITATIVE SERVICES 68805

Notwithstanding any limitations contained in sections 5112.31 68806
and 5112.37 of the Revised Code, in each fiscal year, cash from 68807
State Special Revenue Fund 4K1, ICF/MR Bed Assessments, in excess 68808
of the amounts needed for transfers to Fund 4K8 may be used by the 68809
Department of Job and Family Services to cover costs of care 68810
provided to participants in a waiver with an ICF/MR level of care 68811
requirement administered by the Department of Job and Family 68812
Services. 68813

**Section 58.13. FUNDING FOR INSTITUTIONAL FACILITY AUDITS AND 68814
THE OHIO ACCESS SUCCESS PROJECT** 68815

Notwithstanding any limitations in sections 3721.51 and 68816
3721.56 of the Revised Code, in each fiscal year, cash from the 68817
State Special Revenue Fund 4J5, Home and Community-Based Services 68818
for the Aged, in excess of the amounts needed for the transfers 68819
may be used by the Department of Job and Family Services for the 68820
following purposes: (A) up to \$1.0 million in each fiscal year to 68821
fund the state share of audits of Medicaid cost reports filed with 68822
the Department of Job and Family Services by nursing facilities 68823

and intermediate care facilities for the mentally retarded; and 68824
(B) up to \$350,000 in fiscal year 2004 and up to \$350,000 in 68825
fiscal year 2005 to provide one-time transitional benefits under 68826
the Ohio Access Success Project that the Director of Job and 68827
Family Services may establish under section 5111.206 of the 68828
Revised Code. 68829

Section 58.14. REFUND OF SETS PENALTY 68830

The Department of Job and Family Services shall deposit any 68831
refunds for penalties that were paid directly or indirectly by the 68832
state for the Support Enforcement Tracking System (SETS) to Fund 68833
3V6, TANF Block Grant. 68834

Section 58.15. PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY 68835

The Director of Job and Family Services may submit to the 68836
United States Secretary of Health and Human Services a request to 68837
transfer the day-to-day administration of the Program of 68838
All-Inclusive Care for the Elderly, known as PACE, in accordance 68839
with 42 U.S.C. 1396u-4, to the Department of Aging. If the United 68840
States Secretary approves the transfer, the Directors of Job and 68841
Family Services and Aging may enter into an interagency agreement 68842
under section 5111.86 of the Revised Code to transfer 68843
responsibility for the day-to-day administration of PACE from the 68844
Department of Job and Family Services to the Department of Aging. 68845
The interagency agreement is subject to the approval of the 68846
Director of Budget and Management and shall include an estimated 68847
cost of services to be provided under PACE and an estimated cost 68848
for the administrative duties assigned by the agreement to the 68849
Department of Aging. 68850

If the Directors of Job and Family Services and Aging enter 68851
into the interagency agreement, the Director of Budget and 68852
Management shall reduce the amount in appropriation item 600-525, 68853

Health Care/Medicaid, by the estimated costs of PACE. If the 68854
Director of Budget and Management makes the reduction, the state 68855
and federal share of the estimated costs of PACE services and 68856
administration is hereby appropriated to the Department of Aging. 68857
The Director of Budget and Management shall establish a new 68858
appropriation item for the appropriation. 68859

Section 58.16. MEDICAID ELIGIBILITY REDUCTIONS 68860

The Director of Job and Family Services shall, not later than 68861
ninety days after the effective date of this section, submit to 68862
the United States Secretary of Health and Human Services an 68863
amendment to the state Medicaid plan to eliminate the expansion of 68864
eligibility required by the version of section 5111.019 of the 68865
Revised Code that existed prior to the amendment made by this act. 68866
The reduction in eligibility mandated by this section shall be 68867
implemented not earlier than October 1, 2003, and not later than 68868
the effective date of federal approval. 68869

Section 58.17. ASSISTED LIVING WAIVER 68870

If the Directors of Job and Family Services and Aging enter 68871
into the interagency agreement, the Director of Budget and 68872
Management shall reduce the appropriation in appropriation item 68873
600-525 by the amount that the Department of Job and Family 68874
Services estimates its spending will be reduced as a result of the 68875
transfer of persons approved for the budget-neutral Medicaid home 68876
and community-based services for assisted living services waiver. 68877
If the Director of Budget and Management makes the reduction, the 68878
state and federal share of the estimated costs of assisted living 68879
services is hereby appropriated to the Department of Aging. The 68880
Director of Budget and Management shall establish appropriation 68881
items for the appropriations. 68882

Section 58.18. APPROPRIATIONS FROM FUND 3V0 68883

Upon the request of the Department of Job and Family Services, the Director of Budget and Management may increase appropriations in either appropriation item 600-662, WIA Ohio Option #7, Fund 3V0 or in appropriation item 600-688, Workforce Investment Act, Fund 3V0, with a corresponding decrease in the other appropriation item supported by Fund 3V0 to allow counties that administer the Workforce Investment Act as a conventional county to administer the Act as an Ohio Option county or to allow counties that administer the Workforce Investment Act as an Ohio Option county to administer the Act as a conventional county.

Section 58.19. FEDERAL UNEMPLOYMENT PROGRAMS

There is hereby appropriated out of funds made available to the state under section 903(d) of the Social Security Act, as amended, \$53,700,000 for fiscal year 2004 and \$47,300,000 for fiscal year 2005. Upon the request of the Director of Job and Family Services, the Director of Budget and Management shall increase the appropriation for fiscal year 2004 by the amount remaining unspent from the fiscal year 2003 appropriation and shall increase the appropriation for fiscal year 2005 by the amount remaining unspent from the fiscal year 2004 appropriation. The appropriation is 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. 68915

Of the appropriation item 600-678, Federal Unemployment 68916
Programs, in Section 63 of Am. Sub. H.B. 94 of the 124th General 68917
Assembly, as amended, up to \$18,000,000 in fiscal year 2004 and up 68918
to \$18,000,000 in fiscal year 2005 shall be used by the Department 68919
of Job and Family Services to reimburse the General Revenue Fund, 68920
through state intrastate transfer vouchers, for expenses incurred 68921
on or after the effective date of this section from the General 68922
Revenue Fund for the aforementioned programs as reported to the 68923
federal government as allowable expenditures. 68924

Section 59. JCO JUDICIAL CONFERENCE OF OHIO 68925

General Revenue Fund 68926

GRF 018-321 Operating Expenses \$ 1,124,000 \$ 1,124,000 68927

TOTAL GRF General Revenue Fund \$ 1,124,000 \$ 1,124,000 68928

General Services Fund Group 68929

403 018-601 Ohio Jury Instructions \$ 200,000 \$ 200,000 68930

TOTAL GSF General Services Fund \$ 200,000 \$ 200,000 68931

Group

TOTAL ALL BUDGET FUND GROUPS \$ 1,324,000 \$ 1,324,000 68932

STATE COUNCIL OF UNIFORM STATE LAWS 68933

Notwithstanding section 105.26 of the Revised Code, of the 68934
foregoing appropriation item 018-321, Operating Expenses, up to 68935
\$63,000 in fiscal year 2004 and up to \$66,000 in fiscal year 2005 68936
may be used to pay the expenses of the State Council of Uniform 68937
State Laws, including membership dues to the National Conference 68938
of Commissioners on Uniform State Laws. 68939

OHIO JURY INSTRUCTIONS FUND 68940

The Ohio Jury Instructions Fund (Fund 403) shall consist of 68941
grants, royalties, dues, conference fees, bequests, devises, and 68942
other gifts received for the purpose of supporting costs incurred 68943

by the Judicial Conference of Ohio in dispensing educational and 68944
informational data to the state's judicial system. Fund 403 shall 68945
be used by the Judicial Conference of Ohio to pay expenses 68946
incurred in dispensing educational and informational data to the 68947
state's judicial system. All moneys accruing to Fund 403 in excess 68948
of \$200,000 in fiscal year 2004 and in excess of \$200,000 in 68949
fiscal year 2005 are hereby appropriated for the purposes 68950
authorized. 68951

No money in the Ohio Jury Instructions Fund shall be 68952
transferred to any other fund by the Director of Budget and 68953
Management or the Controlling Board. 68954

Section 60. JSC THE JUDICIARY/SUPREME COURT 68955

General Revenue Fund 68956

GRF 005-321 Operating Expenses - \$ 114,846,495 \$ 119,867,425 68957
Judiciary/Supreme
Court

GRF 005-401 State Criminal \$ 346,194 \$ 356,371 68958
Sentencing Council

GRF 005-406 Law-Related Education \$ 209,836 \$ 216,131 68959

GRF 005-502 Commission for Legal \$ 685,000 \$ 1,270,000 68960
Education Opportunity

TOTAL GRF General Revenue Fund \$ 116,087,525 \$ 121,709,927 68961

General Services Fund Group 68962

672 005-601 Continuing Judicial \$ 126,000 \$ 120,000 68963
Education

TOTAL GSF General Services Fund \$ 126,000 \$ 120,000 68964
Group

Federal Special Revenue Fund Group 68965

3J0 005-603 Federal Grants \$ 1,030,061 \$ 1,030,061 68966

TOTAL FED Federal Special Revenue \$ 1,030,061 \$ 1,030,061 68967
Fund Group

State Special Revenue Fund Group				68968
4C8 005-605 Attorney Registration	\$	2,332,733	\$ 2,495,171	68969
5T8 005-609 Grants and Awards	\$	33,296	\$ 33,296	68970
6A8 005-606 Supreme Court	\$	1,230,514	\$ 1,267,428	68971
Admissions				
643 005-607 Commission on	\$	568,788	\$ 587,210	68972
Continuing Legal				
Education				
TOTAL SSR State Special Revenue	\$	4,165,331	\$ 4,383,105	68973
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	121,408,917	\$ 127,243,093	68974
 LAW-RELATED EDUCATION				68975
 The foregoing appropriation item 005-406, Law-Related				68976
Education, shall be distributed directly to the Ohio Center for				68977
Law-Related Education for the purposes of providing continuing				68978
citizenship education activities to primary and secondary				68979
students, expanding delinquency prevention programs, increasing				68980
activities for at-risk youth, and accessing additional public and				68981
private money for new programs.				68982
 OHIO COMMISSION FOR LEGAL EDUCATION OPPORTUNITY				68983
 The foregoing appropriation item 005-502, Commission for				68984
Legal Education Opportunity, shall be used to fund the activities				68985
of the Commission for Legal Education Opportunity created by the				68986
Chief Justice of the Supreme Court for the purpose of assisting				68987
minority, low-income, and educationally disadvantaged college				68988
graduates in the transition to legal education. Moneys				68989
appropriated to the Commission for Legal Education Opportunity may				68990
be used to establish and provide an intensive course of study				68991
designed to prepare eligible college graduates for law school				68992
education, provide annual stipends for students who successfully				68993
complete the course of study and are admitted to and maintain				68994

satisfactory academic standing in an Ohio law school, and pay the 68995
administrative costs associated with the program. 68996

CONTINUING JUDICIAL EDUCATION 68997

The Continuing Judicial Education Fund (Fund 672) shall 68998
consist of fees paid by judges and court personnel for attending 68999
continuing education courses and other gifts and grants received 69000
for the purpose of continuing judicial education. The foregoing 69001
appropriation item 005-601, Continuing Judicial Education, shall 69002
be used to pay expenses for continuing education courses for 69003
judges and court personnel. If it is determined by the 69004
Administrative Director of the Supreme Court that additional 69005
appropriations are necessary, the amounts are hereby appropriated. 69006

No money in the Continuing Judicial Education Fund shall be 69007
transferred to any other fund by the Director of Budget and 69008
Management or the Controlling Board. Interest earned on moneys in 69009
the Continuing Judicial Education Fund shall be credited to the 69010
fund. 69011

FEDERAL GRANTS 69012

The Federal Grants Fund (Fund 3J0) shall consist of grants 69013
and other moneys awarded to the Supreme Court (The Judiciary) by 69014
the United States Government or other entities that receive the 69015
moneys directly from the United States Government and distribute 69016
those moneys to the Supreme Court (The Judiciary). The foregoing 69017
appropriation item 005-603, Federal Grants, shall be used in a 69018
manner consistent with the purpose of the grant or award. If it is 69019
determined by the Administrative Director of the Supreme Court 69020
that additional appropriations are necessary, the amounts are 69021
hereby appropriated. 69022

No money in the Federal Grants Fund shall be transferred to 69023
any other fund by the Director of Budget and Management or the 69024
Controlling Board. However, interest earned on moneys in the 69025

Federal Grants Fund shall be credited or transferred to the 69026
General Revenue Fund. 69027

ATTORNEY REGISTRATION 69028

In addition to funding other activities considered 69029
appropriate by the Supreme Court, the foregoing appropriation item 69030
005-605, Attorney Registration, may be used to compensate 69031
employees and fund the appropriate activities of the following 69032
offices established by the Supreme Court pursuant to the Rules for 69033
the Government of the Bar of Ohio: the Office of Disciplinary 69034
Counsel, the Board of Commissioners on Grievances and Discipline, 69035
the Clients' Security Fund, the Board of Commissioners on the 69036
Unauthorized Practice of Law, and the Office of Attorney 69037
Registration. If it is determined by the Administrative Director 69038
of the Supreme Court that additional appropriations are necessary, 69039
the amounts are hereby appropriated. 69040

No moneys in the Attorney Registration Fund shall be 69041
transferred to any other fund by the Director of Budget and 69042
Management or the Controlling Board. Interest earned on moneys in 69043
the Attorney Registration Fund shall be credited to the fund. 69044

GRANTS AND AWARDS 69045

The Grants and Awards Fund (Fund 5T8) shall consist of grants 69046
and other moneys awarded to the Supreme Court (The Judiciary) by 69047
the State Justice Institute, the Office of Criminal Justice 69048
Services, or other entities. The foregoing appropriation item 69049
005-609, Grants and Awards, shall be used in a manner consistent 69050
with the purpose of the grant or award. If it is determined by the 69051
Administrative Director of the Supreme Court that additional 69052
appropriations are necessary, the amounts are hereby appropriated. 69053

No moneys in the Grants and Awards Fund shall be transferred 69054
to any other fund by the Director of Budget and Management or the 69055
Controlling Board. However, interest earned on moneys in the 69056

Grants and Awards Fund shall be credited or transferred to the 69057
General Revenue Fund. 69058

SUPREME COURT ADMISSIONS 69059

The foregoing appropriation item 005-606, Supreme Court 69060
Admissions, shall be used to compensate Supreme Court employees 69061
who are primarily responsible for administering the attorney 69062
admissions program, pursuant to the Rules for the Government of 69063
the Bar of Ohio, and to fund any other activities considered 69064
appropriate by the court. Moneys shall be deposited into the 69065
Supreme Court Admissions Fund (Fund 6A8) pursuant to the Supreme 69066
Court Rules for the Government of the Bar of Ohio. If it is 69067
determined by the Administrative Director of the Supreme Court 69068
that additional appropriations are necessary, the amounts are 69069
hereby appropriated. 69070

No moneys in the Supreme Court Admissions Fund shall be 69071
transferred to any other fund by the Director of Budget and 69072
Management or the Controlling Board. Interest earned on moneys in 69073
the Supreme Court Admissions Fund shall be credited to the fund. 69074

CONTINUING LEGAL EDUCATION 69075

The foregoing appropriation item 005-607, Commission on 69076
Continuing Legal Education, shall be used to compensate employees 69077
of the Commission on Continuing Legal Education, established 69078
pursuant to the Supreme Court Rules for the Government of the Bar 69079
of Ohio, and to fund other activities of the commission considered 69080
appropriate by the court. If it is determined by the 69081
Administrative Director of the Supreme Court that additional 69082
appropriations are necessary, the amounts are hereby appropriated. 69083

No moneys in the Continuing Legal Education Fund shall be 69084
transferred to any other fund by the Director of Budget and 69085
Management or the Controlling Board. Interest earned on moneys in 69086
the Continuing Legal Education Fund shall be credited to the fund. 69087

Section 61. LEC LAKE ERIE COMMISSION				69088	
State Special Revenue Fund Group				69089	
4C0 780-601 Lake Erie Protection	\$	1,070,975	\$	1,070,975	69090
Fund					
5D8 780-602 Lake Erie Resources	\$	689,004	\$	689,004	69091
Fund					
TOTAL SSR State Special Revenue					69092
Fund Group	\$	1,759,979	\$	1,759,979	69093
TOTAL ALL BUDGET FUND GROUPS	\$	1,759,979	\$	1,759,979	69094
CASH TRANSFER					69095
Not later than the thirtieth day of November of each fiscal					69096
year, the Executive Director of the Ohio Lake Erie Office, with					69097
the approval of the Lake Erie Commission, shall certify to the					69098
Director of Budget and Management the cash balance in the Lake					69099
Erie Resources Fund (Fund 5D8) in excess of amounts needed to meet					69100
operating expenses of the Lake Erie Office. The Ohio Lake Erie					69101
Office may request the Director of Budget and Management to					69102
transfer up to the certified amount from the Lake Erie Resources					69103
Fund (Fund 5D8) to the Lake Erie Protection Fund (Fund 4C0). The					69104
Director of Budget and Management may transfer the requested					69105
amount, or the Director may transfer a different amount up to the					69106
certified amount. Cash transferred shall be used for the purposes					69107
described in division (A) of section 1506.23 of the Revised Code.					69108
The amount transferred by the director is appropriated to the					69109
foregoing appropriation item 780-601, Lake Erie Protection Fund,					69110
which shall be increased by the amount transferred.					69111
Section 62. LRS LEGAL RIGHTS SERVICE					69112
General Revenue Fund					69113
GRF 054-100 Personal Services	\$	193,516	\$	193,514	69114
GRF 054-200 Maintenance	\$	33,938	\$	33,938	69115

GRF 054-300	Equipment	\$	1,856	\$	1,856	69116
GRF 054-401	Ombudsman	\$	321,423	\$	321,425	69117
TOTAL GRF	General Revenue Fund	\$	550,733	\$	550,733	69118
General Services Fund Group						69119
416 054-601	Gifts and Donations	\$	1,352	\$	1,352	69120
5M0 054-610	Settlements	\$	75,000	\$	75,000	69121
TOTAL GSF	General Services					69122
Fund Group		\$	76,352	\$	76,352	69123
Federal Special Revenue Fund Group						69124
3B8 054-603	Protection and Advocacy - Mentally Ill	\$	1,018,279	\$	1,018,279	69125
3N3 054-606	Protection and Advocacy - Individual Rights	\$	507,648	\$	507,648	69126
3N9 054-607	Assistive Technology	\$	50,000	\$	50,000	69127
3R9 054-604	Family Support Collaborative	\$	242,500	\$	242,500	69128
3T2 054-609	Client Assistance Program	\$	404,807	\$	404,807	69129
3X1 054-611	Protection and Advocacy for Beneficiaries of Social Security	\$	187,784	\$	187,784	69130
3Z6 054-612	Traumatic Brain Injury	\$	50,000	\$	50,000	69131
305 054-602	Protection and Advocacy - Developmentally Disabled	\$	1,280,363	\$	1,280,363	69132
TOTAL FED	Federal Special Revenue					69133
Fund Group		\$	3,741,381	\$	3,741,381	69134
TOTAL ALL BUDGET	FUND GROUPS	\$	4,368,466	\$	4,368,466	69135

Section 63. JLE JOINT LEGISLATIVE ETHICS COMMITTEE				69137
General Revenue Fund				69138
GRF 028-321	Legislative Ethics	\$ 532,000	\$ 551,000	69139
Committee				
TOTAL GRF	General Revenue Fund	\$ 532,000	\$ 551,000	69140
State Special Revenue Fund Group				69141
4G7 028-601	Joint Legislative	\$ 34,000	\$ 34,000	69142
Ethics Committee				
TOTAL SSR	State Special Revenue	\$ 34,000	\$ 34,000	69143
Fund				
TOTAL ALL BUDGET FUND GROUPS		\$ 566,000	\$ 585,000	69144
 Section 64. LSC LEGISLATIVE SERVICE COMMISSION				69146
General Revenue Fund				69147
GRF 035-321	Operating Expenses	\$ 14,470,000	\$ 14,900,000	69148
GRF 035-402	Legislative Interns	\$ 975,000	\$ 990,000	69149
GRF 035-404	Legislative Office of	\$ 1,219,832	\$ 1,256,427	69150
Education Oversight				
GRF 035-406	ATMS Replacement	\$ 20,000	\$ 20,000	69151
Project				
GRF 035-407	Legislative Task Force	\$ 100,000	\$ 0	69152
on Redistricting				
GRF 035-409	National Associations	\$ 430,000	\$ 441,000	69153
GRF 035-410	Legislative	\$ 3,624,200	\$ 3,624,200	69154
Information Systems				
TOTAL GRF	General Revenue Fund	\$ 20,839,032	\$ 21,231,627	69155
General Services Fund Group				69156
4F6 035-603	Legislative Budget	\$ 149,350	\$ 152,337	69157
Services				
410 035-601	Sale of Publications	\$ 25,000	\$ 25,000	69158
TOTAL GSF	General Services			69159

Fund Group	\$	174,350	\$	177,337	69160
TOTAL ALL BUDGET FUND GROUPS	\$	21,013,382	\$	21,408,964	69161
ATMS REPLACEMENT PROJECT					69162
Of the foregoing appropriation item 035-406, ATMS Replacement					69163
Project, any amounts not used for the ATMS project may be used to					69164
pay the operating expenses of the Legislative Service Commission.					69165
Section 65. LIB STATE LIBRARY BOARD					69166
General Revenue Fund					69167
GRF 350-321 Operating Expenses	\$	6,701,407	\$	6,802,947	69168
GRF 350-400 Ohio Public Library	\$	0	\$	5,000,000	69169
Information Network					
GRF 350-401 Ohioana Rental	\$	124,816	\$	124,816	69170
Payments					
GRF 350-501 Cincinnati Public	\$	584,414	\$	569,803	69171
Library					
GRF 350-502 Regional Library	\$	1,380,467	\$	1,345,956	69172
Systems					
GRF 350-503 Cleveland Public	\$	879,042	\$	857,066	69173
Library					
TOTAL GRF General Revenue Fund	\$	9,670,146	\$	14,700,588	69174
General Services Fund Group					69175
139 350-602 Intra-Agency Service	\$	9,000	\$	9,000	69176
Charges					
4S4 350-604 OPLIN Technology	\$	6,450,000	\$	1,000,000	69177
459 350-602 Interlibrary Service	\$	2,759,661	\$	2,809,661	69178
Charges					
TOTAL GSF General Services					69179
Fund Group	\$	9,218,661	\$	3,818,661	69180
Federal Special Revenue Fund Group					69181
313 350-601 LSTA Federal	\$	5,541,647	\$	5,541,647	69182

TOTAL FED Federal Special Revenue	69183
Fund Group	\$ 5,541,647 \$ 5,541,647 69184
TOTAL ALL BUDGET FUND GROUPS	\$ 24,430,454 \$ 24,060,896 69185
OHIOANA RENTAL PAYMENTS	69186
The foregoing appropriation item 350-401, Ohioana Rental	69187
Payments, shall be used to pay the rental expenses of the Martha	69188
Kinney Cooper Ohioana Library Association pursuant to section	69189
3375.61 of the Revised Code.	69190
REGIONAL LIBRARY SYSTEMS	69191
The foregoing appropriation item 350-502, Regional Library	69192
Systems, shall be used to support regional library systems	69193
eligible for funding under section 3375.90 of the Revised Code.	69194
OHIO PUBLIC LIBRARY INFORMATION NETWORK	69195
The foregoing appropriation items 350-604, OPLIN Technology,	69196
and, in fiscal year 2005, 350-400, Ohio Public Library Information	69197
Network, shall be used for an information telecommunications	69198
network linking public libraries in the state and such others as	69199
may be certified as participants by the Ohio Public Library	69200
Information Network Board.	69201
The Ohio Public Library Information Network Board shall	69202
consist of eleven members appointed by the State Library Board	69203
from among the staff of public libraries and past and present	69204
members of boards of trustees of public libraries, based on the	69205
recommendations of the Ohio library community. The Ohio Public	69206
Library Information Network Board, in consultation with the State	69207
Library, shall develop a plan of operations for the network. The	69208
board may make decisions regarding use of the foregoing OPLIN	69209
appropriation items 350-604 and may receive and expend grants to	69210
carry out the operations of the network in accordance with state	69211
law and the authority to appoint and fix the compensation of a	69212
director and necessary staff. The State Library shall be the	69213

fiscal agent for the network and shall have fiscal accountability 69214
for the expenditure of funds. The Ohio Public Library Information 69215
Network Board members shall be reimbursed for actual travel and 69216
necessary expenses incurred in carrying out their 69217
responsibilities. 69218

In order to limit access to obscene and illegal materials 69219
through internet use at Ohio Public Library Information Network 69220
(OPLIN) terminals, local libraries with OPLIN computer terminals 69221
shall adopt policies that control access to obscene and illegal 69222
materials. These policies may include use of technological systems 69223
to select or block certain internet access. The OPLIN shall 69224
condition provision of its funds, goods, and services on 69225
compliance with these policies. The OPLIN Board shall also adopt 69226
and communicate specific recommendations to local libraries on 69227
methods to control such improper usage. These methods may include 69228
each library implementing a written policy controlling such 69229
improper use of library terminals and requirements for parental 69230
involvement or written authorization for juvenile internet usage. 69231

The OPLIN Board shall research and assist or advise local 69232
libraries with regard to emerging technologies and methods that 69233
may be effective means to control access to obscene and illegal 69234
materials. The OPLIN Executive Director shall biannually provide 69235
written reports to the Governor, the Speaker and Minority Leader 69236
of the House of Representatives, and the President and Minority 69237
Leader of the Senate on any steps being taken by OPLIN and public 69238
libraries in the state to limit and control such improper usage as 69239
well as information on technological, legal, and law enforcement 69240
trends nationally and internationally affecting this area of 69241
public access and service. 69242

The Ohio Public Library Information Network, InfoOhio, and 69243
OhioLink shall, to the extent feasible, coordinate and cooperate 69244
in their purchase or other acquisition of the use of electronic 69245

databases for their respective users and shall contribute funds in 69246
an equitable manner to such effort. 69247

TRANSFER TO OPLIN TECHNOLOGY FUND 69248

Notwithstanding sections 5747.03 and 5747.47 of the Revised 69249
Code and any other provision of law to the contrary, in accordance 69250
with a schedule established by the Director of Budget and 69251
Management, the Director of Budget and Management shall transfer 69252
up to \$5,000,000 in fiscal year 2004 from the Library and Local 69253
Government Support Fund (Fund 065) to the OPLIN Technology Fund 69254
(Fund 4S4). 69255

Section 66. LCO LIQUOR CONTROL COMMISSION 69256

Liquor Control Fund Group 69257

043 970-321 Operating Expenses	\$	779,886	\$	794,387	69258
TOTAL LCF Liquor Control Fund Group	\$	779,886	\$	794,387	69259
TOTAL ALL BUDGET FUND GROUPS	\$	779,886	\$	794,387	69260

Section 67. LOT STATE LOTTERY COMMISSION 69262

State Lottery Fund Group 69263

044 950-100 Personal Services	\$	25,114,200	\$	25,133,314	69264
044 950-200 Maintenance	\$	20,100,168	\$	20,120,268	69265
044 950-300 Equipment	\$	3,067,250	\$	3,113,259	69266
044 950-402 Game and Advertising	\$	68,683,000	\$	68,683,000	69267
Contracts					
044 950-500 Problem Gambling	\$	335,000	\$	335,000	69268
Subsidy					
044 950-601 Prizes, Bonuses, and	\$	166,173,455	\$	166,173,455	69269
Commissions					
871 950-602 Annuity Prizes	\$	162,228,451	\$	162,185,260	69270
TOTAL SLF State Lottery Fund					69271
Group	\$	445,701,524	\$	445,743,556	69272
TOTAL ALL BUDGET FUND GROUPS	\$	445,701,524	\$	445,743,556	69273

OPERATING EXPENSES	69274
The Controlling Board may, at the request of the State Lottery Commission, authorize additional appropriations for operating expenses of the State Lottery Commission from the State Lottery Fund up to a maximum of 15 per cent of anticipated total revenue accruing from the sale of lottery tickets.	69275 69276 69277 69278 69279
PRIZES, BONUSES, AND COMMISSIONS	69280
Any amounts, in addition to the amounts appropriated in appropriation item 950-601, Prizes, Bonuses, and Commissions, that are determined by the Director of the State Lottery Commission to be necessary to fund prizes, bonuses, and commissions are hereby appropriated.	69281 69282 69283 69284 69285
ANNUITY PRIZES	69286
With the approval of the Office of Budget and Management, the State Lottery Commission shall transfer cash from the State Lottery Fund Group (Fund 044) to the Deferred Prizes Trust Fund (Fund 871) in an amount sufficient to fund deferred prizes. The Treasurer of State, from time to time, shall credit the Deferred Prizes Trust Fund (Fund 871) the pro rata share of interest earned by the Treasurer of State on invested balances.	69287 69288 69289 69290 69291 69292 69293
Any amounts, in addition to the amounts appropriated in appropriation item 950-602, Annuity Prizes, that are determined by the Director of the State Lottery Commission to be necessary to fund deferred prizes and interest earnings are hereby appropriated.	69294 69295 69296 69297 69298
TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND	69299
The Ohio Lottery Commission shall transfer an amount greater than or equal to \$637,900,000 in fiscal year 2004 and \$637,900,000 in fiscal year 2005 to the Lottery Profits Education Fund. Transfers from the Commission to the Lottery Profits Education	69300 69301 69302 69303

Fund shall represent the estimated net income from operations for 69304
the Commission in fiscal year 2004 or fiscal year 2005. Transfers 69305
by the Commission to the Lottery Profits Education Fund shall be 69306
administered in accordance with and pursuant to the Revised Code. 69307
The unencumbered and unallotted balances as of June 30, 2003, in 69308
the Unclaimed Prize Fund (Fund 872), are hereby transferred to the 69309
State Lottery Fund Group (Fund 044). 69310

Section 68. MED STATE MEDICAL BOARD 69311

General Services Fund Group 69312
5C6 883-609 State Medical Board \$ 6,991,505 \$ 7,092,484 69313
Operating
TOTAL GSF General Services 69314
Fund Group \$ 6,991,505 \$ 7,092,484 69315
TOTAL ALL BUDGET FUND GROUPS \$ 6,991,505 \$ 7,092,484 69316

Section 69. DMH DEPARTMENT OF MENTAL HEALTH 69318

Division of General Administration Intragovernmental Service Fund 69319
Group 69320
151 235-601 General Administration \$ 85,181,973 \$ 85,181,973 69321
TOTAL ISF Intragovernmental 69322
Service Fund Group \$ 85,181,973 \$ 85,181,973 69323
Division of Mental Health-- 69324
Psychiatric Services to Correctional Facilities 69325
General Revenue Fund 69326
GRF 332-401 Forensic Services \$ 4,338,858 \$ 4,338,858 69327
TOTAL GRF General Revenue Fund \$ 4,338,858 \$ 4,338,858 69328
TOTAL ALL BUDGET FUND GROUPS \$ 89,520,831 \$ 89,520,831 69329

FORENSIC SERVICES 69330

The foregoing appropriation item 322-401, Forensic Services, 69331
shall be used to provide psychiatric services to courts of common 69332
pleas. The appropriation shall be allocated through community 69333

mental health boards to certified community agencies and shall be 69334
distributed according to the criteria delineated in rule 69335
5122:4-1-01 of the Administrative Code. These community forensic 69336
funds may also be used to provide forensic training to community 69337
mental health boards and to forensic psychiatry residency programs 69338
in hospitals operated by the Department of Mental Health and to 69339
provide evaluations of patients of forensic status in facilities 69340
operated by the Department of Mental Health prior to conditional 69341
release to the community. 69342

In addition, appropriation item 332-401, Forensic Services, 69343
may be used to support projects involving mental health, substance 69344
abuse, courts, and law enforcement to identify and develop 69345
appropriate alternative services to institutionalization for 69346
nonviolent mentally ill offenders, and to provide linkage to 69347
community services for severely mentally disabled offenders 69348
released from institutions operated by the Department of 69349
Rehabilitation and Correction. Funds may also be utilized to 69350
provide forensic monitoring and tracking in addition to community 69351
programs serving persons of forensic status on conditional release 69352
or probation. 69353

Division of Mental Health-- 69354

Administration and Statewide Programs 69355

General Revenue Fund 69356

GRF 333-321 Central Administration \$ 22,808,798 \$ 24,178,778 69357

GRF 333-402 Resident Trainees \$ 1,364,919 \$ 1,364,919 69358

GRF 333-403 Pre-Admission \$ 650,135 \$ 650,135 69359

Screening Expenses

GRF 333-415 Lease-Rental Payments \$ 25,935,650 \$ 23,206,750 69360

GRF 333-416 Research Program \$ 1,001,551 \$ 1,001,551 69361

Evaluation

TOTAL GRF General Revenue Fund \$ 51,761,053 \$ 50,402,133 69362

General Services Fund Group 69363

149	333-609	Central Office Rotary	\$	1,087,454	\$	1,103,578	69364
		- Operating					
	TOTAL	General Services Fund Group	\$	1,087,454	\$	1,103,578	69365
		Federal Special Revenue Fund Group					69366
3A7	333-612	Social Services Block	\$	25,000	\$	0	69367
		Grant					
3A8	333-613	Federal Grant -	\$	57,470	\$	57,984	69368
		Administration					
3A9	333-614	Mental Health Block	\$	827,363	\$	835,636	69369
		Grant					
3B1	333-635	Community Medicaid	\$	4,126,430	\$	4,145,222	69370
		Expansion					
324	333-605	Medicaid/Medicare	\$	523,761	\$	514,923	69371
	TOTAL	Federal Special Revenue					69372
	Fund Group		\$	5,560,024	\$	5,553,765	69373
		State Special Revenue Fund Group					69374
4X5	333-607	Behavioral Health	\$	2,913,327	\$	3,000,634	69375
		Medicaid Services					
485	333-632	Mental Health	\$	134,233	\$	134,233	69376
		Operating					
5M2	333-602	PWLC Campus	\$	200,000	\$	200,000	69377
		Improvement					
	TOTAL	State Special Revenue					69378
	Fund Group		\$	3,247,560	\$	3,334,867	69379
	TOTAL ALL BUDGET FUND GROUPS		\$	61,656,091	\$	60,394,343	69380

RESIDENCY TRAINEESHIP PROGRAMS 69381

The foregoing appropriation item 333-402, Resident Trainees, 69382
shall be used to fund training agreements entered into by the 69383
Department of Mental Health for the development of curricula and 69384
the provision of training programs to support public mental health 69385
services. 69386

PRE-ADMISSION SCREENING EXPENSES 69387

The foregoing appropriation item 333-403, Pre-Admission 69388
Screening Expenses, shall be used to pay for costs to ensure that 69389
uniform statewide methods for pre-admission screening are in place 69390
to perform assessments for persons in need of mental health 69391
services or for whom institutional placement in a hospital or in 69392
another inpatient facility is sought. Pre-admission screening 69393
includes the following activities: pre-admission assessment, 69394
consideration of continued stay requests, discharge planning and 69395
referral, and adjudication of appeals and grievance procedures. 69396

LEASE-RENTAL PAYMENTS 69397

The foregoing appropriation item 333-415, Lease-Rental 69398
Payments, shall be used to meet all payments at the times they are 69399
required to be made during the period from July 1, 2003, to June 69400
30, 2005, by the Department of Mental Health pursuant to leases 69401
and agreements made under section 154.20 of the Revised Code, but 69402
limited to the aggregate amount of \$49,142,400. Nothing in this 69403
act shall be deemed to contravene the obligation of the state to 69404
pay, without necessity for further appropriation, from the sources 69405
pledged thereto, the bond service charges on obligations issued 69406
pursuant to section 154.20 of the Revised Code. 69407

Section 69.01. DIVISION OF MENTAL HEALTH - HOSPITALS 69408

General Revenue Fund 69409

GRF 334-408 Community and Hospital \$ 380,249,629 \$ 390,506,082 69410

Mental Health Services

GRF 334-506 Court Costs \$ 976,652 \$ 976,652 69411

TOTAL GRF General Revenue Fund \$ 381,226,281 \$ 391,482,134 69412

General Services Fund Group 69413

149 334-609 Hospital Rotary - \$ 22,908,053 \$ 24,408,053 69414

Operating Expenses

150	334-620	Special Education	\$	120,930	\$	120,930	69415
TOTAL GSF General Services							69416
Fund Group			\$	23,028,983	\$	24,528,983	69417
Federal Special Revenue Fund Group							69418
3B0	334-617	Elementary and Secondary Education Act	\$	248,644	\$	251,866	69419
3B1	334-635	Hospital Medicaid Expansion	\$	2,000,000	\$	2,000,000	69420
324	334-605	Medicaid/Medicare	\$	10,484,944	\$	10,916,925	69421
5L2	334-619	Health Foundation/Greater Cincinnati	\$	26,000	\$	0	69422
TOTAL FED Federal Special Revenue							69423
Fund Group			\$	12,759,588	\$	13,168,791	69424
State Special Revenue Fund Group							69425
485	334-632	Mental Health Operating	\$	2,387,253	\$	2,476,297	69426
692	334-636	Community Mental Health Board Risk Fund	\$	100,000	\$	100,000	69427
TOTAL SSR State Special Revenue							69428
Fund Group			\$	2,487,253	\$	2,576,297	69429
TOTAL ALL BUDGET FUND GROUPS							69430
COMMUNITY MENTAL HEALTH BOARD RISK FUND							69431
The foregoing appropriation item 334-636, Community Mental							69432
Health Board Risk Fund, shall be used to make payments pursuant to							69433
section 5119.62 of the Revised Code.							69434
Section 69.02. DIVISION OF MENTAL HEALTH - COMMUNITY SUPPORT							69435
SERVICES							69436
General Revenue Fund							69437

GRF 335-419	Community Medication Subsidy	\$	7,711,092	\$	7,959,798	69438
GRF 335-505	Local MH Systems of Care	\$	89,687,868	\$	89,687,868	69439
TOTAL GRF	General Revenue Fund	\$	97,398,960	\$	97,647,666	69440
	General Services Fund Group					69441
4P9 335-604	Community Mental Health Projects	\$	200,000	\$	200,000	69442
TOTAL GSF	General Services Fund Group	\$	200,000	\$	200,000	69443
	Federal Special Revenue Fund Group					69444
3A7 335-612	Social Services Block Grant	\$	9,314,108	\$	9,314,108	69445
3A8 335-613	Federal Grant - Community Mental Health Board Subsidy	\$	1,717,040	\$	1,717,040	69446
3A9 335-614	Mental Health Block Grant	\$	16,887,218	\$	17,056,090	69447
3B1 335-635	Community Medicaid Expansion	\$	220,472,136	\$	237,766,721	69448
TOTAL FED	Federal Special Revenue Fund Group	\$	248,390,502	\$	265,853,959	69449
	State Special Revenue Fund Group					69450
632 335-616	Community Capital Replacement	\$	250,000	\$	250,000	69451
TOTAL SSR	State Special Revenue Fund Group	\$	250,000	\$	250,000	69452
TOTAL ALL BUDGET FUND GROUPS		\$	346,239,462	\$	363,951,625	69453
DEPARTMENT TOTAL						69454
GENERAL REVENUE FUND		\$	534,725,152	\$	543,871,391	69455
DEPARTMENT TOTAL						69456
GENERAL SERVICES FUND GROUP		\$	24,316,437	\$	25,832,561	69457

DEPARTMENT TOTAL				69459	
FEDERAL SPECIAL REVENUE				69460	
FUND GROUP	\$	266,684,114	\$	284,576,515	69461
DEPARTMENT TOTAL				69462	
STATE SPECIAL REVENUE FUND GROUP	\$	6,010,813	\$	6,161,164	69463
DEPARTMENT TOTAL				69464	
INTRAGOVERNMENTAL FUND GROUP	\$	85,181,973	\$	85,181,973	69465
TOTAL DEPARTMENT OF MENTAL HEALTH	\$	916,918,489	\$	945,623,604	69466

Section 69.03. COMMUNITY MEDICATION SUBSIDY 69468

The foregoing appropriation item 335-419, Community Medication Subsidy, shall be used to provide subsidized support for psychotropic medication needs of indigent citizens in the community to reduce unnecessary hospitalization because of lack of medication and to provide subsidized support for methadone costs. 69469
69470
69471
69472
69473

LOCAL MENTAL HEALTH SYSTEMS OF CARE 69474

The foregoing appropriation item 335-505, Local Mental Health Systems of Care, shall be used for mental health services provided by community mental health boards in accordance with a community mental health plan submitted pursuant to section 340.03 of the Revised Code and as approved by the Department of Mental Health. 69475
69476
69477
69478
69479

Of the foregoing appropriation, not less than \$34,818,917 in fiscal year 2004 and not less than \$34,818,917 in fiscal year 2005 shall be distributed by the Department of Mental Health on a per capita basis to community mental health boards. 69480
69481
69482
69483

Of the foregoing appropriation, \$100,000 in each fiscal year shall be used to fund family and consumer education and support. 69484
69485

BEHAVIORAL HEALTH MEDICAID SERVICES 69486

The Department of Mental Health shall administer specified Medicaid Services as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation 69487
69488
69489

item 333-607, Behavioral Health Medicaid Services, may be used to 69490
 make payments for free-standing psychiatric hospital inpatient 69491
 services as defined in an interagency agreement with the 69492
 Department of Job and Family Services. 69493

Section 70. DMR DEPARTMENT OF MENTAL RETARDATION AND 69494
 DEVELOPMENTAL DISABILITIES 69495

Section 70.01. GENERAL ADMINISTRATION AND STATEWIDE SERVICES 69496

General Revenue Fund 69497

GRF 320-321 Central Administration	\$	9,174,390	\$	9,357,878	69498
GRF 320-412 Protective Services	\$	1,911,471	\$	2,008,330	69499
GRF 320-415 Lease-Rental Payments	\$	25,935,650	\$	23,206,750	69500
TOTAL GRF General Revenue Fund	\$	37,021,511	\$	34,572,958	69501

General Services Fund Group 69502

4B5 320-640 Conference/Training	\$	400,000	\$	400,000	69503
TOTAL GSF General Services					69504
Fund Group	\$	400,000	\$	400,000	69505

Federal Special Revenue Fund Group 69506

3A4 320-605 Administrative Support	\$	12,492,892	\$	12,492,892	69507
3A5 320-613 DD Council Operating	\$	861,000	\$	861,000	69508
Expenses					69509
325 320-634 Protective Services	\$	100,000	\$	100,000	69510

TOTAL FED Federal Special Revenue 69511

Fund Group	\$	13,453,892	\$	13,453,892	69512
------------	----	------------	----	------------	-------

State Special Revenue Fund Group 69513

5S2 590-622 Medicaid	\$	2,969,552	\$	2,969,552	69514
Administration & Oversight					

TOTAL SSR State Special Revenue 69515

Fund Group	\$	2,969,552	\$	2,969,552	69516
------------	----	-----------	----	-----------	-------

TOTAL ALL GENERAL ADMINISTRATION 69517

AND STATEWIDE SERVICES				69518
BUDGET FUND GROUPS	\$	53,844,955	\$ 51,396,402	69519
LEASE-RENTAL PAYMENTS				69520
The foregoing appropriation item 320-415, Lease-Rental				69521
Payments, shall be used to meet all payments at the times they are				69522
required to be made during the period from July 1, 2003, to June				69523
30, 2005, by the Department of Mental Retardation and				69524
Developmental Disabilities pursuant to leases and agreements made				69525
under section 154.20 of the Revised Code, but limited to the				69526
aggregate amount of \$49,142,400. Nothing in this act shall be				69527
deemed to contravene the obligation of the state to pay, without				69528
necessity for further appropriation, from the sources pledged				69529
thereto, the bond service charges on obligations issued pursuant				69530
to section 154.20 of the Revised Code.				69531
Section 70.02. COMMUNITY SERVICES				69532
General Revenue Fund				69533
GRF 322-405 State Use Program	\$	268,792	\$ 273,510	69534
GRF 322-413 Residential and	\$	8,439,337	\$ 8,450,787	69535
Support Services				
GRF 322-416 Waiver State Match	\$	95,695,198	\$ 100,019,747	69536
GRF 322-417 Supported Living	\$	43,179,715	\$ 43,179,715	69537
GRF 322-451 Family Support	\$	6,975,870	\$ 6,975,870	69538
Services				
GRF 322-452 Service and Support	\$	8,849,724	\$ 8,849,724	69539
Administration				
GRF 322-501 County Boards	\$	31,795,691	\$ 31,795,691	69540
Subsidies				
GRF 322-503 Tax Equity	\$	14,000,000	\$ 15,000,000	69541
TOTAL GRF General Revenue Fund	\$	209,204,327	\$ 214,545,044	69542
General Services Fund Group				69543
4J6 322-645 Intersystem Services	\$	3,300,000	\$ 3,300,000	69544

		for Children					
4U4	322-606	Community MR and DD	\$	300,000	\$	300,000	69545
		Trust					
4V1	322-611	Program Support	\$	610,000	\$	625,000	69546
488	322-603	Residential Services	\$	1,000,000	\$	1,000,000	69547
		Refund					
TOTAL GSF General Services							69548
Fund Group			\$	5,210,000	\$	5,225,000	69549
Federal Special Revenue Fund Group							69550
3A4	322-605	Community Program	\$	1,000,000	\$	1,000,000	69551
		Support					
3A4	322-610	Community Residential	\$	500,000	\$	500,000	69552
		Support					
3A5	322-613	DD Council Grants	\$	3,130,000	\$	3,130,000	69553
3G6	322-639	Medicaid Waiver	\$	344,068,714	\$	373,772,814	69554
3M7	322-650	CAFS Medicaid	\$	254,739,737	\$	267,668,087	69555
325	322-608	Federal Grants -	\$	2,023,587	\$	1,833,815	69556
		Operating Expenses					69557
325	322-612	Social Service Block	\$	10,319,346	\$	10,330,830	69558
		Grant					69559
325	322-617	Education Grants -	\$	75,500	\$	75,500	69560
		Operating					69561
TOTAL FED Federal Special Revenue							69562
Fund Group			\$	615,856,884	\$	658,311,046	69563
State Special Revenue Fund Group							69564
4K8	322-604	Waiver - Match	\$	12,000,000	\$	12,000,000	69565
5H0	322-619	Medicaid Repayment	\$	25,000	\$	25,000	69566
TOTAL SSR State Special Revenue							69567
Fund Group			\$	12,025,000	\$	12,025,000	69568
TOTAL ALL COMMUNITY SERVICES							69569
BUDGET FUND GROUPS			\$	842,296,211	\$	890,106,090	69570
RESIDENTIAL AND SUPPORT SERVICES							69571

The Department of Mental Retardation and Developmental Disabilities may designate a portion of appropriation item 322-413, Residential and Support Services, for the following:

(A) Sermak Class Services used to implement the requirements of the agreement settling 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;

(B) Medicaid-reimbursed programs other than home and community-based waiver services, 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.

WAIVER STATE MATCH

The purposes for which the foregoing appropriation item 322-416, Waiver State Match, shall be used include 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) To pay the nonfederal share of the cost of one or more new intermediate care facility for the mentally retarded certified beds in a county where the county board of mental retardation and developmental disabilities does not initiate or support the development or certification of such beds, if the director of mental retardation and developmental disabilities is required by this act to transfer to the director of job and family services funds to pay such nonfederal share.

The Department of Mental Retardation and Developmental Disabilities may designate a portion of appropriation item

322-416, Waiver State Match, to county boards of mental 69602
retardation and developmental disabilities that have greater need 69603
for various residential and support services due to a low 69604
percentage of residential and support services development in 69605
comparison to the number of individuals with mental retardation or 69606
developmental disabilities in the county. 69607

SUPPORTED LIVING 69608

The purposes for which the foregoing appropriation item 69609
322-417, Supported Living, shall be used include supported living 69610
services contracted by county boards of mental retardation and 69611
developmental disabilities in accordance with sections 5126.40 to 69612
5126.47 of the Revised Code and to pay the nonfederal share of the 69613
cost of one or more new intermediate care facility for the 69614
mentally retarded certified beds in a county where the county 69615
board of mental retardation and developmental disabilities does 69616
not initiate or support the development of certification of such 69617
beds, if the director of mental retardation and developmental 69618
disabilities is required by this act to transfer to the director 69619
of job and family services funds to pay such nonfederal share. 69620

OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS 69621

Notwithstanding Chapters 5123. and 5126. of the Revised Code, 69622
the Department of Mental Retardation and Developmental 69623
Disabilities may develop residential and support service programs 69624
funded by appropriation item 322-413, Residential and Support 69625
Services, appropriation item 322-416, Waiver State Match, or 69626
appropriation item 322-417, Supported Living, that enable persons 69627
with mental retardation and developmental disabilities to live in 69628
the community. Notwithstanding Chapter 5121. and section 5123.122 69629
of the Revised Code, the department may waive the support 69630
collection requirements of those statutes for persons in community 69631
programs developed by the department under this section. The 69632
department shall adopt rules under Chapter 119. of the Revised 69633

Code or may use existing rules for the implementation of these 69634
programs. 69635

FAMILY SUPPORT SERVICES 69636

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 69637
5126.11 of the Revised Code, the Department of Mental Retardation 69638
and Developmental Disabilities may implement programs funded by 69639
appropriation item 322-451, Family Support Services, to provide 69640
assistance to persons with mental retardation or developmental 69641
disabilities and their families who are living in the community. 69642
The department shall adopt rules to implement these programs. The 69643
department may also use the foregoing appropriation item 322-451, 69644
Family Support Services, to pay the nonfederal share of the cost 69645
of one or more new intermediate care facility for the mentally 69646
retarded certified beds in a county where the county board of 69647
mental retardation and developmental disabilities initiates or 69648
supports the development or certification of such beds, if the 69649
director of mental retardation and developmental disabilities is 69650
required by this act to transfer to the director of job and family 69651
services funds to pay such nonfederal share. 69652

SERVICE AND SUPPORT ADMINISTRATION 69653

The foregoing appropriation item 322-452, Service and Support 69654
Administration, shall be allocated to county boards of mental 69655
retardation and developmental disabilities for the purpose of 69656
providing service and support administration services and to 69657
assist in bringing state funding for all department-approved 69658
service and support administrators within county boards of mental 69659
retardation and developmental disabilities to the level authorized 69660
in division (C) of section 5126.15 of the Revised Code. The 69661
department may request approval from the Controlling Board to 69662
transfer any unobligated appropriation authority from other state 69663
General Revenue Fund appropriation items within the department's 69664
budget to appropriation item 322-452, Service and Support 69665

Administration, to be used to meet the statutory funding level in 69666
division (C) of section 5126.15 of the Revised Code. 69667

Notwithstanding division (C) of section 5126.15 of the 69668
Revised Code and subject to funding in appropriation item 322-452, 69669
Service and Support Administration, no county may receive less 69670
than its allocation in fiscal year 1995. Wherever case management 69671
services are referred to in any law, contract, or other document, 69672
the reference shall be deemed to refer to service and support 69673
administration. No action or proceeding pending on the effective 69674
date of this section is affected by the renaming of case 69675
management services as service and support administration. 69676

The Department of Mental Retardation and Developmental 69677
Disabilities shall adopt, amend, and rescind rules as necessary to 69678
reflect the renaming of case management services as service and 69679
support administration. All boards of mental retardation and 69680
developmental disabilities and the entities with which they 69681
contract for services shall rename the titles of their employees 69682
who provide service and support administration. All boards and 69683
contracting entities shall make corresponding changes to all 69684
employment contracts. 69685

The department may also use the foregoing appropriation item 69686
322-452, Service and Support Administration, to pay the nonfederal 69687
share of the cost of one or more new intermediate care facility 69688
for the mentally retarded certified beds in a county where the 69689
county board of mental retardation and developmental disabilities 69690
initiates or supports the development or certification of such 69691
beds, if the director of mental retardation and developmental 69692
disabilities is required by this act to transfer to the director 69693
of job and family services funds to pay such nonfederal share. 69694

STATE SUBSIDIES TO MR/DD BOARDS 69695

The foregoing appropriation item 322-501, County Boards 69696

Subsidies, shall be distributed to county boards of mental 69697
retardation and developmental disabilities pursuant to section 69698
5126.12 of the Revised Code to the limit of the lesser of the 69699
amount required by that section or the appropriation in 69700
appropriation item 322-501 prorated to all county boards of mental 69701
retardation and developmental disabilities. 69702

The department may also use the foregoing appropriation item 69703
322-501, County Board Subsidies, to pay the nonfederal share of 69704
the cost of one or more new intermediate care facility for the 69705
mentally retarded certified beds in a county where the county 69706
board of mental retardation and developmental disabilities 69707
initiates or supports the development or certification of such 69708
beds, if the director of mental retardation and developmental 69709
disabilities is required by this act to transfer to the director 69710
of job and family services funds to pay such nonfederal share. 69711

TAX EQUITY 69712

The foregoing appropriation item 322-503, Tax Equity, shall 69713
be used to fund the tax equalization program created under section 69714
5126.18 of the Revised Code for county boards of mental 69715
retardation and developmental disabilities. 69716

INTERSYSTEM SERVICES FOR CHILDREN 69717

The foregoing appropriation item 322-645, Intersystem 69718
Services for Children, shall be used to support direct grants to 69719
county family and children first councils created under section 69720
121.37 of the Revised Code. The funds shall be used as partial 69721
support payment and reimbursement for locally coordinated 69722
treatment plans for multi-needs children that come to the 69723
attention of the Family and Children First Cabinet Council 69724
pursuant to section 121.37 of the Revised Code. The Department of 69725
Mental Retardation and Developmental Disabilities may use up to 69726
five per cent of this amount for administrative expenses 69727

associated with the distribution of funds to the county councils.	69728
WAIVER - MATCH	69729
The foregoing appropriation item 322-604, Waiver-Match (Fund 4K8), shall be used as state matching funds for the home and community-based waivers.	69730 69731 69732
Section 70.03. DEVELOPMENTAL CENTER PROGRAM TO DEVELOP A MODEL BILLING FOR SERVICES RENDERED	69733 69734
Developmental centers of the Department of Mental Retardation and Developmental Disabilities may provide services to persons with mental retardation or developmental disabilities living in the community or to providers of services to these persons. The department may develop a methodology for recovery of all costs associated with the provisions of these services.	69735 69736 69737 69738 69739 69740
Section 70.04. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER PHARMACY PROGRAMS	69741 69742
Beginning July 1, 2003, the Department of Mental Retardation and Developmental Disabilities shall pay the Department of Job and Family Services quarterly, through intrastate transfer voucher, the nonfederal share of Medicaid prescription drug claim costs for all developmental centers paid by the Department of Job and Family Services.	69743 69744 69745 69746 69747 69748
Section 70.05. RESIDENTIAL FACILITIES	69749
General Revenue Fund	69750
GRF 323-321 Residential Facilities \$ 103,402,750 \$ 104,634,635	69751
Operations	69752
TOTAL GRF General Revenue Fund \$ 103,402,750 \$ 104,634,635	69753
General Services Fund Group	69754
152 323-609 Residential Facilities \$ 912,177 \$ 912,177	69755

Support				69756
TOTAL GSF General Services				69757
Fund Group	\$	912,177	\$ 912,177	69758
Federal Special Revenue Fund Group				69759
3A4 323-605 Residential Facilities	\$	128,736,729	\$ 128,831,708	69760
Reimbursement				69761
325 323-608 Federal Grants -	\$	571,381	\$ 582,809	69762
Subsidies				69763
325 323-617 Education Grants -	\$	425,000	\$ 425,000	69764
Residential Facilities				69765
TOTAL FED Federal Special Revenue				69766
Fund Group	\$	129,733,110	\$ 129,839,517	69767
State Special Revenue Fund Group				69768
489 323-632 Operating Expense	\$	12,125,628	\$ 12,125,628	69769
TOTAL SSR State Special Revenue				69770
Fund Group	\$	12,125,628	\$ 12,125,628	69771
TOTAL ALL RESIDENTIAL FACILITIES				69772
BUDGET FUND GROUPS	\$	246,173,665	\$ 247,511,957	69773
DEPARTMENT TOTAL				69774
GENERAL REVENUE FUND	\$	349,628,588	\$ 353,752,637	69775
DEPARTMENT TOTAL				69776
GENERAL SERVICES FUND GROUP	\$	6,522,177	\$ 6,537,177	69777
DEPARTMENT TOTAL				69778
FEDERAL SPECIAL REVENUE FUND GROUP	\$	759,043,886	\$ 801,604,455	69779
DEPARTMENT TOTAL				69780
STATE SPECIAL REVENUE FUND GROUP	\$	27,120,180	\$ 27,120,180	69781
TOTAL DEPARTMENT OF MENTAL				69782
RETARDATION AND DEVELOPMENTAL				69783
DISABILITIES	\$	1,142,314,831	\$ 1,189,014,449	69784
(A) The Executive Branch Committee on Medicaid Redesign and				69785
Expansion of MRDD Services, as established by Am. Sub. H.B. 94 of				69786
the 124th General Assembly, shall continue and consist of all of				69787

the following individuals: 69788

(1) One representative of the Governor appointed by the 69789
Governor; 69790

(2) Two representatives of the Department of Mental 69791
Retardation and Developmental Disabilities appointed by the 69792
Director of Mental Retardation and Developmental Disabilities; 69793

(3) Two representatives of the Department of Job and Family 69794
Services appointed by the Director of Job and Family Services; 69795

(4) One representative of the Office of Budget and Management 69796
appointed by the Director of Budget and Management; 69797

(5) One representative of The Arc of Ohio appointed by the 69798
organization's board of trustees; 69799

(6) One representative of the Ohio Association of County 69800
Boards of Mental Retardation and Developmental Disabilities 69801
appointed by the association's board of trustees; 69802

(7) One representative of the Ohio Superintendents of County 69803
Boards of Mental Retardation and Developmental Disabilities 69804
appointed by the organization's board of trustees; 69805

(8) One representative of the Ohio Provider Resource 69806
Association appointed by the association's board of trustees; 69807

(9) One representative of the Ohio Health Care Association 69808
appointed by the association's board of trustees; 69809

(10) One representative of individuals with mental 69810
retardation or other developmental disability appointed by the 69811
Director of Mental Retardation and Developmental Disabilities. 69812

(B) The Governor shall appoint the chairperson of the 69813
committee. Members of the committee shall serve without 69814
compensation or reimbursement, except to the extent that serving 69815
on the committee is considered a part of their regular employment 69816
duties. 69817

(C) The committee shall meet at times determined by the chairperson to do all of the following:

(1) Review the effect that the provisions of this act regarding Medicaid funding for services to individuals with mental retardation or other developmental disability have on the funding and provision of services to such individuals;

(2) Identify issues related to, and barriers to, the effective implementation of those provisions of this act with the goal of meeting the needs of individuals with mental retardation or other developmental disability;

(3) Establish effective means for resolving the issues and barriers, including advocating changes to state law, rules, or both.

(D) The committee shall submit a final report to the Governor and Directors of Mental Retardation and Developmental Disabilities and Job and Family Services and shall cease to exist on submission of the final report unless the Governor issues an executive order providing for the committee to continue.

Section 71. MIH COMMISSION ON MINORITY HEALTH

General Revenue Fund					69837
GRF 149-321 Operating Expenses	\$	572,679	\$	575,948	69838
GRF 149-501 Minority Health Grants	\$	751,478	\$	751,478	69839
GRF 149-502 Lupus Program	\$	141,556	\$	141,556	69840
TOTAL GRF General Revenue Fund	\$	1,465,713	\$	1,468,982	69841
Federal Special Revenue Fund Group					69842
3J9 149-602 Federal Grants	\$	150,000	\$	150,000	69843
TOTAL FED Federal Special Revenue Fund Group	\$	150,000	\$	150,000	69845
State Special Revenue Fund Group					69846
4C2 149-601 Minority Health	\$	150,000	\$	150,000	69847

Conference

TOTAL SSR State Special Revenue				69848
Fund Group	\$	150,000	\$ 150,000	69849
TOTAL ALL BUDGET FUND GROUPS	\$	1,765,713	\$ 1,768,982	69850

LUPUS PROGRAM 69851

The foregoing appropriation item 149-502, Lupus Program, 69852
shall be used to provide grants for programs in patient, public, 69853
and professional education on the subject of systemic lupus 69854
erythematosus; to encourage and develop local centers on lupus 69855
information gathering and screening; and to provide outreach to 69856
minority women. 69857

Section 72. CRB MOTOR VEHICLE COLLISION REPAIR REGISTRATION 69858

BOARD 69859

General Service Fund Group 69860

5H9 865-609 Operating Expenses	\$	285,497	\$ 314,422	69861
--------------------------------	----	---------	------------	-------

TOTAL GSF General Services 69862

Fund Group	\$	285,497	\$ 314,422	69863
------------	----	---------	------------	-------

TOTAL ALL BUDGET FUND GROUPS	\$	285,497	\$ 314,422	69864
------------------------------	----	---------	------------	-------

Section 73. DNR DEPARTMENT OF NATURAL RESOURCES 69866

General Revenue Fund 69867

GRF 725-404 Fountain Square Rental	\$	1,093,300	\$ 1,094,800	69868
------------------------------------	----	-----------	--------------	-------

Payments - OBA

GRF 725-407 Conservation Reserve	\$	1,218,750	\$ 1,218,750	69869
----------------------------------	----	-----------	--------------	-------

Enhancement Program

GRF 725-413 OPFC Lease Rental	\$	15,066,500	\$ 17,709,500	69870
-------------------------------	----	------------	---------------	-------

Payments

GRF 725-423 Stream and Ground	\$	331,819	\$ 331,819	69871
-------------------------------	----	---------	------------	-------

Water Gauging

GRF 725-425 Wildlife License	\$	487,500	\$ 487,500	69872
------------------------------	----	---------	------------	-------

Reimbursement

GRF 725-456	Canal Lands	\$	332,859	\$	332,859	69873
GRF 725-502	Soil and Water Districts	\$	9,262,500	\$	9,018,750	69874
GRF 725-903	Natural Resources General Obligation Debt Service	\$	23,808,300	\$	26,914,300	69875
GRF 727-321	Division of Forestry	\$	9,503,082	\$	9,630,384	69876
GRF 728-321	Division of Geological Survey	\$	1,980,135	\$	1,991,163	69877
GRF 729-321	Office of Information Technology	\$	440,895	\$	440,895	69878
GRF 730-321	Division of Parks and Recreation	\$	34,689,553	\$	37,464,717	69879
GRF 733-321	Division of Water	\$	3,355,830	\$	3,237,619	69880
GRF 736-321	Division of Engineering	\$	3,410,852	\$	3,436,918	69881
GRF 737-321	Division of Soil and Water	\$	3,995,288	\$	4,014,788	69882
GRF 738-321	Division of Real Estate and Land Management	\$	2,322,031	\$	2,331,781	69883
GRF 741-321	Division of Natural Areas and Preserves	\$	3,238,612	\$	3,226,656	69884
GRF 744-321	Division of Mineral Resources Management	\$	3,439,744	\$	3,495,967	69885
TOTAL GRF	General Revenue Fund	\$	117,977,550	\$	126,379,166	69886
	General Services Fund Group					69887
155 725-601	Departmental Projects	\$	2,645,479	\$	2,831,337	69888
157 725-651	Central Support Indirect	\$	8,272,102	\$	8,423,094	69889
161 725-635	Parks Facilities Maintenance	\$	2,063,124	\$	2,576,240	69890
204 725-687	Information Services	\$	3,384,275	\$	3,476,627	69891

206	725-689	REALM Support Services	\$	475,000	\$	475,000	69892
207	725-690	Real Estate Services	\$	54,000	\$	54,000	69893
4D5	725-618	Recycled Materials	\$	50,000	\$	50,000	69894
4S9	725-622	NatureWorks Personnel	\$	908,516	\$	983,103	69895
4X8	725-662	Water Resources Council	\$	282,524	\$	282,524	69896
430	725-671	Canal Lands	\$	1,119,834	\$	1,059,056	69897
508	725-684	Natural Resources Publication Center Interstate	\$	209,364	\$	215,626	69898
510	725-631	Maintenance - state-owned residences	\$	255,905	\$	260,849	69899
516	725-620	Water Management	\$	3,663,849	\$	2,342,814	69900
635	725-664	Fountain Square Facilities Management	\$	3,104,199	\$	3,104,199	69901
697	725-670	Submerged Lands	\$	507,099	\$	542,011	69902
TOTAL GSF General Services							69903
Fund Group			\$	26,995,270	\$	26,676,480	69904
Federal Special Revenue Fund Group							69905
3B3	725-640	Federal Forest Pass-Thru	\$	140,000	\$	150,000	69906
3B4	725-641	Federal Flood Pass-Thru	\$	280,000	\$	285,000	69907
3B5	725-645	Federal Abandoned Mine Lands	\$	11,922,845	\$	11,843,866	69908
3B6	725-653	Federal Land and Water Conservation Grants	\$	4,900,000	\$	5,000,000	69909
3B7	725-654	Reclamation - Regulatory	\$	2,179,870	\$	2,168,413	69910
3P0	725-630	Natural Areas and Preserves - Federal	\$	718,876	\$	552,480	69911
3P1	725-632	Geological Survey - Federal	\$	470,780	\$	479,653	69912

3P2	725-642	Oil and Gas-Federal	\$	224,537	\$	232,964	69913
3P3	725-650	Real Estate and Land Management - Federal	\$	2,357,000	\$	2,357,000	69914
3P4	725-660	Water - Federal	\$	300,000	\$	242,000	69915
3R5	725-673	Acid Mine Drainage Abatement/Treatment	\$	792,028	\$	837,223	69916
3Z5	725-657	REALM Federal	\$	1,578,871	\$	1,578,871	69917
328	725-603	Forestry Federal	\$	1,530,561	\$	1,484,531	69918
332	725-669	Federal Mine Safety Grant	\$	247,364	\$	258,103	69919
TOTAL FED Federal Special Revenue							69920
Fund Group			\$	27,642,732	\$	27,470,104	69921
State Special Revenue Fund Group							69922
4J2	725-628	Injection Well Review	\$	98,468	\$	81,188	69923
4M7	725-631	Wildfire Suppression	\$	50,000	\$	100,000	69924
4U6	725-668	Scenic Rivers Protection	\$	561,000	\$	617,100	69925
5B3	725-674	Mining Regulation	\$	35,000	\$	35,000	69926
5K1	725-626	Urban Forestry Grant	\$	400,000	\$	400,000	69927
5P2	725-634	Wildlife Boater Angler Administration	\$	1,500,000	\$	1,500,000	69928
509	725-602	State Forest	\$	982,970	\$	2,559,117	69929
511	725-646	Ohio Geologic Mapping	\$	983,274	\$	985,940	69930
512	725-605	State Parks Operations	\$	29,915,146	\$	29,915,146	69931
514	725-606	Lake Erie Shoreline	\$	1,027,093	\$	936,254	69932
518	725-643	Oil and Gas Permit Fees	\$	2,205,651	\$	2,399,580	69933
518	725-677	Oil and Gas Well Plugging	\$	1,000,000	\$	1,000,000	69934
521	725-627	Off-Road Vehicle Trails	\$	118,490	\$	123,490	69935
522	725-656	Natural Areas Checkoff Funds	\$	2,046,737	\$	1,550,670	69936

526	725-610	Strip Mining	\$	1,449,459	\$	1,449,459	69937
		Administration Fees					
527	725-637	Surface Mining	\$	2,793,938	\$	2,693,938	69938
		Administration					
529	725-639	Unreclaimed Land Fund	\$	641,589	\$	771,037	69939
531	725-648	Reclamation Forfeiture	\$	2,393,762	\$	2,374,087	69940
532	725-644	Litter Control and	\$	12,544,686	\$	12,544,686	69941
		Recycling					
586	725-633	Scrap Tire Program	\$	1,000,000	\$	1,000,000	69942
615	725-661	Dam Safety	\$	286,045	\$	408,223	69943
TOTAL SSR State Special Revenue							69944
Fund Group			\$	62,033,308	\$	63,484,915	69945
Clean Ohio Fund Group							69946
061	725-405	Clean Ohio Operating	\$	155,000	\$	155,000	69947
TOTAL CLR Clean Ohio Fund Group			\$	155,000	\$	155,000	69948
Wildlife Fund Group							69949
015	740-401	Division of Wildlife	\$	46,000,000	\$	46,000,000	69950
		Conservation					
815	725-636	Cooperative Management	\$	120,449	\$	120,449	69951
		Projects					
816	725-649	Wetlands Habitat	\$	966,885	\$	966,885	69952
817	725-655	Wildlife Conservation	\$	5,000,000	\$	5,000,000	69953
		Checkoff Fund					
818	725-629	Cooperative Fisheries	\$	988,582	\$	988,582	69954
		Research					
819	725-685	Ohio River Management	\$	128,584	\$	128,584	69955
TOTAL WLF Wildlife Fund Group			\$	53,204,500	\$	53,204,500	69956
Waterways Safety Fund Group							69957
086	725-414	Waterways Improvement	\$	3,813,051	\$	4,140,186	69958
086	725-418	Buoy Placement	\$	42,182	\$	42,182	69959
086	725-501	Waterway Safety Grants	\$	137,867	\$	137,867	69960
086	725-506	Watercraft Marine	\$	576,153	\$	576,153	69961

	Patrol				
086	725-513	Watercraft Educational	\$	366,643	\$ 366,643 69962
	Grants				
086	739-401	Division of Watercraft	\$	19,201,158	\$ 18,299,158 69963
	TOTAL WSF Waterways Safety Fund				69964
	Group		\$	24,137,054	\$ 23,562,189 69965
	Holding Account Redistribution Fund Group				69966
R17	725-659	Performance Cash Bond	\$	226,500	\$ 226,500 69967
	Refunds				
R43	725-624	Forestry	\$	800,000	\$ 800,000 69968
	TOTAL 090 Holding Account				69969
	Redistribution Fund Group		\$	1,026,500	\$ 1,026,500 69970
	Accrued Leave Liability Fund Group				69971
4M8	725-675	FOP Contract	\$	20,884	\$ 20,844 69972
	TOTAL ALF Accrued Leave				69973
	Liability Fund Group		\$	20,884	\$ 20,884 69974
	TOTAL ALL BUDGET FUND GROUPS		\$	313,192,758	\$ 321,979,698 69975

Section 73.01. FOUNTAIN SQUARE 69977

The foregoing appropriation item 725-404, Fountain Square 69978
Rental Payments - OBA, shall be used by the Department of Natural 69979
Resources to meet all payments required to be made to the Ohio 69980
Building Authority during the period from July 1, 2003, to June 69981
30, 2005, pursuant to leases and agreements with the Ohio Building 69982
Authority under section 152.241 of the Revised Code, but limited 69983
to the aggregate amount of \$2,188,100. 69984

The Director of Natural Resources, using intrastate transfer 69985
vouchers, shall make payments to the General Revenue Fund from 69986
funds other than the General Revenue Fund to reimburse the General 69987
Revenue Fund for the other funds' shares of the lease rental 69988
payments to the Ohio Building Authority. The transfers from the 69989
non-General Revenue funds shall be made within 10 days of the 69990

payment to the Ohio Building Authority for the actual amounts 69991
necessary to fulfill the leases and agreements pursuant to section 69992
152.241 of the Revised Code. 69993

The foregoing appropriation item 725-664, Fountain Square 69994
Facilities Management (Fund 635), shall be used for payment of 69995
repairs, renovation, utilities, property management, and building 69996
maintenance expenses for the Fountain Square Complex. Cash 69997
transferred by intrastate transfer vouchers from various 69998
department funds and rental income received by the Department of 69999
Natural Resources shall be deposited into the Fountain Square 70000
Facilities Management Fund (Fund 635). 70001

LEASE RENTAL PAYMENTS 70002

The foregoing appropriation item 725-413, OPFC Lease Rental 70003
Payments, shall be used to meet all payments at the times they are 70004
required to be made during the period from July 1, 2003, to June 70005
30, 2005, by the Department of Natural Resources pursuant to 70006
leases and agreements made under section 154.22 of the Revised 70007
Code, but limited to the aggregate amount of \$32,776,000. Nothing 70008
in this act shall be deemed to contravene the obligation of the 70009
state to pay, without necessity for further appropriation, from 70010
the sources pledged thereto, the bond service charges on 70011
obligations issued pursuant to section 154.22 of the Revised Code. 70012

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 70013

The foregoing appropriation item 725-903, Natural Resources 70014
General Obligation Debt Service, shall be used to pay all debt 70015
service and related financing costs at the times they are required 70016
to be made pursuant to sections 151.01 and 151.05 of the Revised 70017
Code during the period from July 1, 2003, to June 30, 2005. The 70018
Office of the Sinking Fund or the Director of Budget and 70019
Management shall effectuate the required payments by an intrastate 70020
transfer voucher. 70021

Section 73.02. WILDLIFE LICENSE REIMBURSEMENT 70022

Notwithstanding the limits of the transfer from the General Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 of the Revised Code, up to the amount available in appropriation item 725-425, Wildlife License Reimbursement, may be transferred from the General Revenue Fund to the Wildlife Fund (Fund 015). Pursuant to the certification of the Director of Budget and Management of the amount of foregone revenue in accordance with section 1533.15 of the Revised Code, the foregoing appropriation item in the General Revenue Fund, appropriation item 725-425, Wildlife License Reimbursement, shall be used to reimburse the Wildlife Fund (Fund 015) for the cost of hunting and fishing licenses and permits issued after June 30, 1990, to individuals who are exempted under the Revised Code from license, permit, and stamp fees.

CANAL LANDS 70037

The foregoing appropriation item 725-456, Canal Lands, shall be used to transfer funds to the Canal Lands Fund (Fund 430) to provide operating expenses for the State Canal Lands Program. The transfer shall be made using an intrastate transfer voucher and shall be subject to the approval of the Director of Budget and Management.

SOIL AND WATER DISTRICTS 70044

In addition to state payments to soil and water conservation districts authorized by section 1515.10 of the Revised Code, the Department of Natural Resources may pay to any soil and water conservation district, from authority in appropriation item 725-502, Soil and Water Districts, an annual amount not to exceed \$30,000, upon receipt of a request and justification from the district and approval by the Ohio Soil and Water Conservation

Commission. The county auditor shall credit the payments to the 70052
special fund established under section 1515.10 of the Revised Code 70053
for the local soil and water conservation district. Moneys 70054
received by each district shall be expended for the purposes of 70055
the district. 70056

FUND CONSOLIDATION 70057

On July 15, 2003, or as soon thereafter as possible, the 70058
Director of Budget and Management shall transfer the cash balance 70059
as certified by the Director of Natural Resources from the Real 70060
Estate and Land Management-Federal Fund (Fund 3P3) to the 70061
REALM-Federal Fund (Fund 325). The Director shall cancel any 70062
remaining outstanding encumbrances against appropriation item 70063
725-650, Real Estate and Land Management-Federal, that are 70064
associated with the REALM federal programs and reestablish them 70065
against appropriation item 725-657, REALM-Federal. The amounts of 70066
any encumbrances canceled and reestablished are hereby 70067
appropriated. 70068

OIL AND GAS WELL PLUGGING 70069

The foregoing appropriation item 725-677, Oil and Gas Well 70070
Plugging, shall be used exclusively for the purposes of plugging 70071
wells and to properly restore the land surface of idle and orphan 70072
oil and gas wells pursuant to section 1509.071 of the Revised 70073
Code. No funds from the appropriation item shall be used for 70074
salaries, maintenance, equipment, or other administrative 70075
purposes, except for those costs directly attributed to the 70076
plugging of an idle or orphan well. Appropriation authority from 70077
this appropriation item shall not be transferred to any other fund 70078
or line item. 70079

CLEAN OHIO OPERATING EXPENSES 70080

The foregoing appropriation item 725-405, Clean Ohio 70081
Operating, shall be used by the Department of Natural Resources in 70082

administering section 1519.05 of the Revised Code.	70083
WATERCRAFT MARINE PATROL	70084
Of the foregoing appropriation item 739-401, Division of	70085
Watercraft, not more than \$200,000 in each fiscal year shall be	70086
expended for the purchase of equipment for marine patrols	70087
qualifying for funding from the Department of Natural Resources	70088
pursuant to section 1547.67 of the Revised Code. Proposals for	70089
equipment shall accompany the submission of documentation for	70090
receipt of a marine patrol subsidy pursuant to section 1547.67 of	70091
the Revised Code and shall be loaned to eligible marine patrols	70092
pursuant to a cooperative agreement between the Department of	70093
Natural Resources and the eligible marine patrol.	70094
ELIMINATION OF CIVILIAN CONSERVATION CORPS	70095
Upon the closure of the Division of Civilian Conservation,	70096
the Director of Natural Resources, not later than June 30, 2004,	70097
shall distribute, allocate, salvage, or transfer all assets,	70098
equipment, supplies, and cash balances of the Division of Civilian	70099
Conservation to other operating divisions of the Department of	70100
Natural Resources as determined by the director. The director	70101
shall maintain a record of such disposition of all assets.	70102
The director shall maintain balances within the Civilian	70103
Conservation Corps Fund to pay all outstanding obligations,	70104
including unemployment and other costs associated with the orderly	70105
closure of the Division of Civilian Conservation. All amounts	70106
necessary for the orderly closure are hereby appropriated.	70107
Section 74. NUR STATE BOARD OF NURSING	70108
General Services Fund Group	70109
4K9 884-609 Operating Expenses \$ 5,232,776 \$ 5,257,576	70110
5P8 884-601 Nursing Special Issues \$ 5,000 \$ 5,000	70111
TOTAL GSF General Services	70112

Fund Group	\$	5,237,776	\$	5,262,576	70113
TOTAL ALL BUDGET FUND GROUPS	\$	5,237,776	\$	5,262,576	70114

NURSING SPECIAL ISSUES 70115

The foregoing appropriation item 884-601, Nursing Special 70116
 Issues (Fund 5P8), shall be used to pay the costs the Board of 70117
 Nursing incurs in implementing section 4723.062 of the Revised 70118
 Code. 70119

Section 75. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND 70120
 ATHLETIC TRAINERS BOARD 70121

General Services Fund Group 70122

4K9 890-609 Operating Expenses	\$	771,391	\$	801,480	70123
--------------------------------	----	---------	----	---------	-------

TOTAL GSF General Services 70124

Fund Group	\$	771,391	\$	801,480	70125
------------	----	---------	----	---------	-------

TOTAL ALL BUDGET FUND GROUPS	\$	771,391	\$	801,480	70126
------------------------------	----	---------	----	---------	-------

Section 76. OLA OHIOANA LIBRARY ASSOCIATION 70128

General Revenue Fund 70129

GRF 355-501 Library Subsidy	\$	215,036	\$	215,036	70130
-----------------------------	----	---------	----	---------	-------

TOTAL GRF General Revenue Fund	\$	215,036	\$	215,036	70131
--------------------------------	----	---------	----	---------	-------

TOTAL ALL BUDGET FUND GROUPS	\$	215,036	\$	215,036	70132
------------------------------	----	---------	----	---------	-------

Section 77. ODB OHIO OPTICAL DISPENSERS BOARD 70134

General Services Fund Group 70135

4K9 894-609 Operating Expenses	\$	307,096	\$	312,656	70136
--------------------------------	----	---------	----	---------	-------

TOTAL GSF General Services 70137

Fund Group	\$	307,096	\$	312,656	70138
------------	----	---------	----	---------	-------

TOTAL ALL BUDGET FUND GROUPS	\$	307,096	\$	312,656	70139
------------------------------	----	---------	----	---------	-------

Section 78. OPT STATE BOARD OF OPTOMETRY 70141

General Services Fund Group 70142

4K9 885-609 Operating Expenses	\$	306,140	\$	324,391	70143
TOTAL GSF General Services					70144
Fund Group	\$	306,140	\$	324,391	70145
TOTAL ALL BUDGET FUND GROUPS	\$	306,140	\$	324,391	70146

Section 79. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, AND PEDORTHICS 70148
70149

General Services Fund Group					70150
4K9 973-609 Operating Expenses	\$	100,206	\$	102,395	70151
TOTAL GSF General Services					70152
Fund Group	\$	100,206	\$	102,395	70153
TOTAL ALL BUDGET FUND GROUPS	\$	100,206	\$	102,395	70154

Section 80. PBR STATE PERSONNEL BOARD OF REVIEW 70155

General Revenue Fund					70156
GRF 124-321 Operating	\$	1,029,430	\$	1,077,170	70157
TOTAL GRF General Revenue Fund	\$	1,029,430	\$	1,077,170	70158
General Services Fund Group					70159
636 124-601 Transcript and Other	\$	25,000	\$	25,000	70160
TOTAL GSF General Services					70161
Fund Group	\$	25,000	\$	25,000	70162
TOTAL ALL BUDGET FUND GROUPS	\$	1,054,430	\$	1,102,170	70163

TRANSCRIPT AND OTHER 70164

The foregoing appropriation item 124-601, Transcript and 70165
Other, may be used to defray the costs of producing an 70166
administrative record. 70167

Section 81. PRX STATE BOARD OF PHARMACY 70168

General Services Fund Group					70169
4A5 887-605 Drug Law Enforcement	\$	72,900	\$	75,550	70170
4K9 887-609 Operating Expenses	\$	4,733,987	\$	4,914,594	70171

TOTAL GSF General Services				70172
Fund Group	\$	4,806,887	\$ 4,990,144	70173
TOTAL ALL BUDGET FUND GROUPS	\$	4,806,887	\$ 4,990,144	70174

Section 82. PSY STATE BOARD OF PSYCHOLOGY 70176

General Services Fund Group				70177
4K9 882-609 Operating Expenses	\$	516,544	\$ 513,525	70178
TOTAL GSF General Services				70179
Fund Group	\$	516,544	\$ 513,525	70180
TOTAL ALL BUDGET FUND GROUPS	\$	516,544	\$ 513,525	70181

Section 83. PUB OHIO PUBLIC DEFENDER COMMISSION 70183

General Revenue Fund				70184
GRF 019-321 Public Defender	\$	1,430,057	\$ 1,351,494	70185
Administration				
GRF 019-401 State Legal Defense	\$	5,724,780	\$ 5,693,572	70186
Services				
GRF 019-403 Multi-County: State	\$	917,668	\$ 930,894	70187
Share				
GRF 019-404 Trumbull County -	\$	299,546	\$ 308,450	70188
State Share				
GRF 019-405 Training Account	\$	33,323	\$ 33,323	70189
GRF 019-501 County Reimbursement -	\$	30,567,240	\$ 32,630,070	70190
Non-Capital Cases				
GRF 019-503 County Reimbursement -	\$	693,000	\$ 726,000	70191
Capital Cases				
TOTAL GRF General Revenue Fund	\$	39,665,614	\$ 41,673,803	70192
General Services Fund Group				70193
101 019-602 Inmate Legal	\$	52,698	\$ 53,086	70194
Assistance				
406 019-603 Training and	\$	16,000	\$ 16,000	70195
Publications				

407 019-604 County Representation	\$	255,789	\$	259,139	70196
408 019-605 Client Payments	\$	285,533	\$	285,533	70197
TOTAL GSF General Services					70198
Fund Group	\$	610,020	\$	613,758	70199
Federal Special Revenue Fund Group					70200
3S8 019-608 Federal Representation	\$	351,428	\$	355,950	70201
TOTAL FED Federal Special Revenue					70202
Fund Group	\$	351,428	\$	355,950	70203
State Special Revenue Fund Group					70204
4C7 019-601 Multi-County: County	\$	1,923,780	\$	1,991,506	70205
Share					
4X7 019-610 Trumbull County -	\$	624,841	\$	658,764	70206
County Share					
574 019-606 Legal Services	\$	14,305,700	\$	14,305,800	70207
Corporation					
TOTAL SSR State Special Revenue					70208
Fund Group	\$	16,854,321	\$	16,956,070	70209
TOTAL ALL BUDGET FUND GROUPS	\$	57,481,383	\$	59,599,581	70210
INDIGENT DEFENSE OFFICE					70211
The foregoing appropriation items 019-404, Trumbull County -					70212
State Share, and 019-610, Trumbull County - County Share, shall be					70213
used to support an indigent defense office for Trumbull County.					70214
MULTI-COUNTY OFFICE					70215
The foregoing appropriation items 019-403, Multi-County:					70216
State Share, and 019-601, Multi-County: County Share, shall be					70217
used to support the Office of the Ohio Public Defender's					70218
Multi-County Branch Office Program.					70219
TRAINING ACCOUNT					70220
The foregoing appropriation item 019-405, Training Account,					70221
shall be used by the Ohio Public Defender to provide legal					70222

training programs at no cost for private appointed counsel who 70223
represent at least one indigent defendant at no cost and for state 70224
and county public defenders and attorneys who contract with the 70225
Ohio Public Defender to provide indigent defense services. 70226

FEDERAL REPRESENTATION 70227

The foregoing appropriation item 019-608, Federal 70228
Representation, shall be used to receive reimbursements from the 70229
federal courts when the Ohio Public Defender provides 70230
representation in federal court cases and to support 70231
representation in such cases. 70232

Section 84. DHS DEPARTMENT OF PUBLIC SAFETY 70233

General Revenue Fund 70234

GRF 763-403 Operating Expenses - \$ 4,058,188 \$ 4,058,188 70235

EMA

GRF 763-501 County Emergency \$ 500,000 \$ 500,000 70236

Preparedness Grants

GRF 763-507 Individual and \$ 48,750 \$ 48,750 70237

Households Grants

GRF 769-321 Food Stamp Trafficking \$ 817,177 \$ 817,177 70238

Enforcement Operations

TOTAL GRF General Revenue Fund \$ 5,424,115 \$ 5,424,115 70239

TOTAL ALL BUDGET FUND GROUPS \$ 5,424,115 \$ 5,424,115 70240

OHIO TASK FORCE ONE - URBAN SEARCH AND RESCUE UNIT 70241

Of the foregoing appropriation item 763-403, Operating 70242
Expenses - EMA, \$200,000 in each fiscal year shall be used to fund 70243
the Ohio Task Force One - Urban Search and Rescue Unit and other 70244
urban search and rescue programs around the state to create a 70245
stronger search and rescue capability statewide. 70246

COUNTY EMERGENCY PREPAREDNESS GRANTS 70247

The foregoing appropriation item 763-501, County Emergency 70248

Preparedness Grants, shall be used to improve preparedness of 70249
local emergency management agencies and authorities in accordance 70250
with Chapter 5502. of the Revised Code. The grants shall be 70251
distributed to agencies based on the distribution formula 70252
established for the Federal Emergency Management Agency (FEMA) 70253
"Emergency Management Performance Grant" (EMPG). Grants made under 70254
this section are not intended to supplant any federal, state, or 70255
local funding to an agency or authority. Therefore, neither a 70256
state agency nor any political subdivision shall take into account 70257
the receipt of a grant under this section in determining the 70258
amount of support that a state agency or political subdivision 70259
provides to an emergency management agency or authority. 70260

INDIVIDUAL AND HOUSEHOLDS GRANTS STATE MATCH 70261

The foregoing appropriation item 763-507, Individual and 70262
Households Grants, shall be used to fund the state share of costs 70263
to provide grants to individuals and households in cases of 70264
disaster. 70265

Section 85. PUC PUBLIC UTILITIES COMMISSION OF OHIO 70266

General Services Fund Group 70267

5F6 870-622 Utility and Railroad \$ 30,622,222 \$ 30,622,222 70268
Regulation

5F6 870-624 NARUC/NRRI Subsidy \$ 167,233 \$ 167,233 70269

5F6 870-625 Motor Transportation \$ 5,361,239 \$ 5,361,239 70270
Regulation

558 870-602 Salvage and Exchange \$ 16,477 \$ 4,000 70271

TOTAL GSF General Services 70272

Fund Group \$ 36,167,171 \$ 36,154,694 70273

Federal Special Revenue Fund Group 70274

3V3 870-604 Commercial Vehicle \$ 870,000 \$ 300,000 70275
Information

Systems/Networks

333	870-601	Gas Pipeline Safety	\$	597,957	\$	597,957	70276
350	870-608	Motor Carrier Safety	\$	7,027,712	\$	7,027,712	70277
TOTAL FED Federal Special Revenue							70278
Fund Group			\$	8,495,669	\$	7,925,669	70279
State Special Revenue Fund Group							70280
4A3	870-614	Grade Crossing Protection Devices-State	\$	1,349,757	\$	1,349,757	70281
4L8	870-617	Pipeline Safety-State	\$	187,621	\$	187,621	70282
4S6	870-618	Hazardous Material Registration	\$	899,325	\$	614,325	70283
4S6	870-621	Hazardous Materials Base State Registration	\$	373,346	\$	373,346	70284
4U8	870-620	Civil Forfeitures	\$	719,986	\$	434,986	70285
559	870-605	Public Utilities Territorial Administration	\$	4,000	\$	4,000	70286
560	870-607	Special Assessment	\$	100,000	\$	100,000	70287
561	870-606	Power Siting Board	\$	337,210	\$	337,210	70288
638	870-611	Biomass Energy Program	\$	40,000	\$	40,000	70289
661	870-612	Hazardous Materials Transportation	\$	900,000	\$	900,000	70290
TOTAL SSR State Special Revenue							70291
Fund Group			\$	4,911,245	\$	4,341,245	70292
Agency Fund Group							70293
4G4	870-616	Base State Registration Program	\$	6,500,000	\$	6,500,000	70294
TOTAL AGY Agency Fund Group			\$	6,500,000	\$	6,500,000	70295
TOTAL ALL BUDGET FUND GROUPS			\$	56,074,085	\$	54,921,608	70296
COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS PROJECT							70297
The Commercial Vehicle Information Systems and Networks Fund							70298

is hereby created in the state treasury. The Commercial Vehicle 70299
Information Systems and Networks Fund shall receive funding from 70300
the United States Department of Transportation's Commercial 70301
Vehicle Intelligent Transportation System Infrastructure 70302
Deployment Program and shall be used to deploy the Ohio Commercial 70303
Vehicle Information Systems and Networks Project and to expedite 70304
and improve the safety of motor carrier operations through 70305
electronic exchange of data by means of on-highway electronic 70306
systems. 70307

Notwithstanding section 4905.80 of the Revised Code, up to 70308
\$435,000 in fiscal year 2004 and \$150,000 in fiscal year 2005 of 70309
the foregoing appropriation item 870-618, Hazardous Material 70310
Registration, may be used to pay the state share of the 70311
implementation of the Ohio Commercial Vehicle Information Systems 70312
and Networks Project. 70313

Notwithstanding section 4923.12 of the Revised Code, up to 70314
\$435,000 in fiscal year 2004 and \$150,000 in fiscal year 2005 of 70315
the foregoing appropriation item 870-620, Civil Forfeitures, may 70316
be used to pay the state share of the implementation of the Ohio 70317
Commercial Vehicle Information Systems and Networks Project. 70318

Section 86. PWC PUBLIC WORKS COMMISSION

General Revenue Fund				70319	
GRF 150-904 Conservation General	\$	9,743,500	\$	11,235,700	70320
Obligation Debt					
Service					
GRF 150-907 State Capital	\$	156,974,400	\$	152,069,700	70321
Improvements					
General Obligation					70322
Debt Service					
TOTAL GRF General Revenue Fund	\$	166,717,900	\$	163,305,400	70323
Clean Ohio Fund Group					70324
					70325

056 150-403 Clean Ohio Operating	\$	298,200	\$	304,400	70326
Expenses					
TOTAL 056 Clean Ohio Fund Group	\$	298,200	\$	304,400	70327
TOTAL ALL BUDGET FUND GROUPS	\$	167,016,100	\$	163,609,800	70328
CONSERVATION GENERAL OBLIGATION DEBT SERVICE					70329
The foregoing appropriation item 150-904, Conservation					70330
General Obligation Debt Service, shall be used to pay all debt					70331
service and related financing costs at the times they are required					70332
to be made pursuant to sections 151.01 and 151.09 of the Revised					70333
Code during the period from July 1, 2003, to June 30, 2005. The					70334
Office of the Sinking Fund or the Director of Budget and					70335
Management shall effectuate the required payments by an intrastate					70336
transfer voucher.					70337
STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE					70338
The foregoing appropriation item 150-907, State Capital					70339
Improvements General Obligation Debt Service, shall be used to pay					70340
all debt service and related financing costs at the times they are					70341
required to be made pursuant to sections 151.01 and 151.08 of the					70342
Revised Code during the period from July 1, 2003, to June 30,					70343
2005. The Office of the Sinking Fund or the Director of Budget and					70344
Management shall effectuate the required payments by an intrastate					70345
transfer voucher.					70346
CLEAN OHIO OPERATING EXPENSES					70347
The foregoing appropriation item 150-403, Clean Ohio					70348
Operating Expenses, shall be used by the Ohio Public Works					70349
Commission in administering sections 164.20 to 164.27 of the					70350
Revised Code.					70351
Section 87. RAC STATE RACING COMMISSION					70352
State Special Revenue Fund Group					70353
5C4 875-607 Simulcast Horse Racing	\$	19,730,799	\$	19,476,950	70354

		Purse					
562	875-601	Thoroughbred Race Fund	\$	4,642,378	\$	4,642,378	70355
563	875-602	Standardbred	\$	2,908,841	\$	3,161,675	70356
		Development Fund					
564	875-603	Quarterhorse	\$	1,000	\$	2,000	70357
		Development Fund					
565	875-604	Racing Commission	\$	4,485,777	\$	4,759,834	70358
		Operating					
		TOTAL SSR State Special Revenue					70359
		Fund Group	\$	31,768,795	\$	32,042,839	70360
		Holding Account Redistribution Fund Group					70361
R21	875-605	Bond Reimbursements	\$	212,900	\$	212,900	70362
		TOTAL 090 Holding Account					70363
		Redistribution					
		Fund Group	\$	212,900	\$	212,900	70364
		TOTAL ALL BUDGET FUND GROUPS	\$	31,981,695	\$	32,255,739	70365
		Section 88. BOR BOARD OF REGENTS					70367
		General Revenue Fund					70368
GRF	235-321	Operating Expenses	\$	3,286,284	\$	2,767,219	70369
GRF	235-401	Lease Rental Payments	\$	246,500,700	\$	216,836,400	70370
GRF	235-402	Sea Grants	\$	261,150	\$	254,622	70371
GRF	235-403	Math/Science Teaching	\$	1,757,614	\$	1,757,614	70372
		Improvement					
GRF	235-404	College Readiness	\$	4,237,350	\$	4,491,591	70373
		Initiatives					
GRF	235-406	Articulation and	\$	733,500	\$	733,500	70374
		Transfer					
GRF	235-408	Midwest Higher	\$	82,500	\$	82,500	70375
		Education Compact					
GRF	235-409	Information System	\$	1,185,879	\$	1,154,671	70376
GRF	235-414	State Grants and	\$	1,219,719	\$	1,211,373	70377

	Scholarship				
	Administration				
GRF 235-415	Jobs Challenge	\$ 9,348,300	\$ 9,348,300		70378
GRF 235-417	Ohio Learning Network	\$ 3,413,046	\$ 3,327,720		70379
GRF 235-418	Access Challenge	\$ 57,068,622	\$ 57,068,622		70380
GRF 235-420	Success Challenge	\$ 43,113,077	\$ 43,113,077		70381
GRF 235-428	Appalachian New	\$ 1,306,013	\$ 1,273,362		70382
	Economy Partnership				
GRF 235-451	Eminent Scholars	\$ 0	\$ 1,462,500		70383
GRF 235-454	Research Challenge	\$ 18,330,000	\$ 18,330,000		70384
GRF 235-455	EnterpriseOhio Network	\$ 1,505,262	\$ 1,465,650		70385
GRF 235-474	Area Health Education	\$ 1,859,414	\$ 1,812,929		70386
	Centers Program				
	Support				
GRF 235-477	Access Improvement	\$ 1,048,664	\$ 1,080,124		70387
	Projects				
GRF 235-501	State Share of	\$ 1,615,549,733	\$ 1,680,171,722		70388
	Instruction				
GRF 235-502	Student Support	\$ 870,675	\$ 848,908		70389
	Services				
GRF 235-503	Ohio Instructional	\$ 111,966,343	\$ 115,325,333		70390
	Grants				
GRF 235-504	War Orphans	\$ 4,672,321	\$ 4,672,321		70391
	Scholarships				
GRF 235-507	OhioLINK	\$ 7,028,392	\$ 7,028,392		70392
GRF 235-508	Air Force Institute of	\$ 2,241,350	\$ 2,197,816		70393
	Technology				
GRF 235-509	Displaced Homemakers	\$ 209,046	\$ 203,819		70394
GRF 235-510	Ohio Supercomputer	\$ 4,208,472	\$ 4,103,260		70395
	Center				
GRF 235-511	Cooperative Extension	\$ 24,125,120	\$ 23,521,992		70396
	Service				
GRF 235-513	Ohio University	\$ 319,973	\$ 311,974		70397

	Voinovich Center					
GRF 235-514	Central State	\$	11,039,203	\$	11,039,203	70398
	Supplement					
GRF 235-515	Case Western Reserve	\$	3,728,175	\$	3,634,970	70399
	University School of Medicine					
GRF 235-516	Clinical Teaching	\$	49,637,536	\$	49,637,536	70400
GRF 235-519	Family Practice	\$	5,695,161	\$	5,552,782	70401
GRF 235-520	Shawnee State	\$	2,082,289	\$	2,082,289	70402
	Supplement					
GRF 235-521	The Ohio State	\$	319,973	\$	311,974	70403
	University Glenn Institute					
GRF 235-524	Police and Fire	\$	209,046	\$	203,819	70404
	Protection					
GRF 235-525	Geriatric Medicine	\$	965,525	\$	941,387	70405
GRF 235-526	Primary Care	\$	2,811,837	\$	2,741,541	70406
	Residencies					
GRF 235-527	Ohio Aerospace	\$	2,075,109	\$	2,023,232	70407
	Institute					
GRF 235-530	Academic Scholarships	\$	7,800,000	\$	7,800,000	70408
GRF 235-531	Student Choice Grants	\$	52,139,646	\$	52,139,646	70409
GRF 235-534	Student Workforce	\$	2,437,500	\$	2,437,500	70410
	Development Grants					
GRF 235-535	Ohio Agricultural	\$	33,722,012	\$	32,878,962	70411
	Research and Development Center					
GRF 235-547	School of	\$	1,487,778	\$	1,450,584	70412
	International Business					
GRF 235-549	Part-time Student	\$	14,036,622	\$	14,457,721	70413
	Instructional Grants					
GRF 235-552	Capital Component	\$	18,711,936	\$	18,711,936	70414
GRF 235-553	Dayton Area Graduate	\$	3,290,357	\$	3,208,099	70415

	Studies Institute				
GRF 235-554	Computer Science	\$	3,032,011	\$	2,956,210 70416
	Graduate Education				
GRF 235-555	Library Depositories	\$	1,775,467	\$	1,731,080 70417
GRF 235-556	Ohio Academic	\$	3,657,009	\$	3,803,289 70418
	Resources Network				
GRF 235-558	Long-term Care	\$	271,654	\$	264,863 70419
	Research				
GRF 235-561	Bowling Green State	\$	143,042	\$	139,466 70420
	University Canadian				
	Studies Center				
GRF 235-572	The Ohio State	\$	1,794,581	\$	1,749,717 70421
	University Clinic				
	Support				
GRF 235-583	Urban University	\$	5,662,486	\$	5,520,924 70422
	Programs				
GRF 235-585	Ohio University	\$	42,445	\$	41,384 70423
	Innovation Center				
GRF 235-587	Rural University	\$	1,197,659	\$	1,167,717 70424
	Projects				
GRF 235-588	Ohio Resource Center	\$	853,262	\$	853,262 70425
	for Mathematics,				
	Science, and Reading				
GRF 235-595	International Center	\$	161,591	\$	157,551 70426
	for Water Resources				
	Development				
GRF 235-596	Hazardous Materials	\$	339,647	\$	331,156 70427
	Program				
GRF 235-599	National Guard	\$	13,252,916	\$	14,578,208 70428
	Scholarship Program				
GRF 235-909	Higher Education	\$	97,668,000	\$	130,967,600 70429
	General Obligation				
	Debt Service				

TOTAL GRF General Revenue Fund		\$ 2,509,489,994	\$ 2,581,472,919	70430
General Services Fund Group				70431
220 235-614 Program Approval and Reauthorization	\$	400,000	\$ 400,000	70432
456 235-603 Sales and Services	\$	300,002	\$ 300,003	70433
TOTAL GSF General Services Fund Group	\$	700,002	\$ 700,003	70434 70435
Federal Special Revenue Fund Group				70436
3H2 235-608 Human Services Project	\$	1,500,000	\$ 1,500,000	70437
3N6 235-605 State Student Incentive Grants	\$	2,196,680	\$ 2,196,680	70438
3T0 235-610 National Health Service Corps - Ohio Loan Repayment	\$	150,001	\$ 150,001	70439
312 235-609 Tech Prep	\$	183,850	\$ 183,850	70440
312 235-611 Gear-up Grant	\$	1,478,245	\$ 1,370,691	70441
312 235-612 Carl D. Perkins Grant/Plan Administration	\$	112,960	\$ 112,960	70442
312 235-615 Professional Development	\$	523,129	\$ 523,129	70443
312 235-616 Workforce Investment Act Administration	\$	850,000	\$ 850,000	70444
312 235-631 Federal Grants	\$	3,444,949	\$ 3,150,590	70445
TOTAL FED Federal Special Revenue Fund Group	\$	10,439,814	\$ 10,037,901	70446 70447
State Special Revenue Fund Group				70448
4E8 235-602 Higher Educational Facility Commission Administration	\$	20,000	\$ 20,000	70449
4P4 235-604 Physician Loan Repayment	\$	476,870	\$ 476,870	70450

649	235-607	The Ohio State University Highway/Transportation Research	\$	760,000	\$	760,000	70451
682	235-606	Nursing Loan Program	\$	893,000	\$	893,000	70452
		TOTAL SSR State Special Revenue					70453
		Fund Group	\$	2,149,870	\$	2,149,870	70454
		TOTAL ALL BUDGET FUND GROUPS	\$	2,522,779,680	\$	2,594,360,693	70455

Section 88.01. GOVERNOR'S COMMISSION ON HIGHER EDUCATION AND THE ECONOMY 70457
70458

Of the foregoing appropriation item 235-321, Operating Expenses, up to \$500,000 shall be used in FY 2004 to support the activities of the Commission on Higher Education and the Economy. The commission shall recommend a strategy to improve the quality and efficiency of Ohio's higher education system to increase effectiveness, eliminate unnecessary duplication, broaden the use of technology, and determine how higher education can most effectively support the state's economy, best prepare Ohio students for Third Frontier jobs, and add to the quality of life for Ohio's citizens. The Director of Budget and Management may transfer any unencumbered fiscal year 2004 balance to fiscal year 2005 to support the activities of the commission.

LEASE RENTAL PAYMENTS 70471

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, 2003, to June 30, 2005, 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 \$463,377,100. Nothing in this act 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 70480
pursuant to section 154.21 of the Revised Code. 70481

SEA GRANTS 70482

The foregoing appropriation item 235-402, Sea Grants, shall 70483
be disbursed to the Ohio State University and shall be used to 70484
conduct research on fish in Lake Erie. 70485

MATHEMATICS AND SCIENCE TEACHING IMPROVEMENT 70486

Appropriation item 235-403, Math/Science Teaching 70487
Improvement, shall be used by the Board of Regents to support 70488
programs such as OSI - Discovery designed to raise the quality of 70489
mathematics and science teaching in primary and secondary 70490
education. 70491

Of the foregoing appropriation item 235-403, Math/Science 70492
Teaching Improvement, \$217,669 in each fiscal year shall be 70493
distributed to the Mathematics and Science Center in Lake County. 70494

Of the foregoing appropriation item 235-403, Math/Science 70495
Teaching Improvement, \$87,068 in fiscal year 2004 and \$87,067 in 70496
fiscal year 2005 shall be distributed to the Ohio Mathematics and 70497
Science Coalition. 70498

COLLEGE READINESS INITIATIVES 70499

Appropriation item 235-404, College Readiness Initiatives, 70500
shall be used by the Board of Regents to support programs designed 70501
to improve the academic preparation and increase the number of 70502
students that enroll and succeed in higher education. 70503

MIDWEST HIGHER EDUCATION COMPACT 70504

The foregoing appropriation item 235-408, Midwest Higher 70505
Education Compact, shall be distributed by the Board of Regents 70506
pursuant to section 3333.40 of the Revised Code. 70507

INFORMATION SYSTEM 70508

The foregoing appropriation item 235-409, Information System, 70509
shall be used by the Board of Regents to operate the higher 70510
education information data system known as the Higher Education 70511
Information System. 70512

Section 88.02. JOBS CHALLENGE 70513

Funds appropriated to appropriation item 235-415, Jobs 70514
Challenge, shall be distributed to state-assisted community and 70515
technical colleges, regional campuses of state-assisted 70516
universities, and other organizationally distinct and identifiable 70517
member campuses of the EnterpriseOhio Network in support of 70518
noncredit job-related training. In each fiscal year, \$2,770,773 70519
shall be distributed as performance grants to EnterpriseOhio 70520
Network campuses based upon each campus's documented performance 70521
according to criteria established by the Board of Regents for 70522
increasing training and related services to businesses, 70523
industries, and public sector organizations. 70524

Of the foregoing appropriation item 235-415, Jobs Challenge, 70525
\$2,819,345 in each fiscal year shall be allocated to the Targeted 70526
Industries Training Grant Program to attract, develop, and retain 70527
business and industry strategically important to the state's 70528
economy. 70529

Also, in each fiscal year, \$3,758,182 shall be allocated to 70530
the Higher Skills Incentives Program to promote and deliver 70531
coordinated, comprehensive training to local employers and to 70532
reward EnterpriseOhio Network campuses for increasing the amount 70533
of non-credit skill upgrading services provided to Ohio employers 70534
and employees. The funds shall be distributed to campuses in 70535
proportion to each campus's share of noncredit job-related 70536
training revenues received by all campuses for the previous fiscal 70537
year. It is the intent of the General Assembly that this Higher 70538
Skills Incentives component of the Jobs Challenge Program reward 70539

campus noncredit job-related training efforts in the same manner 70540
that the Research Challenge Program rewards campuses for their 70541
ability to obtain sponsored research revenues. 70542

OHIO LEARNING NETWORK 70543

Appropriation item 235-417, Ohio Learning Network, shall be 70544
used by the Board of Regents to support the continued 70545
implementation of the Ohio Learning Network, a statewide 70546
electronic collaborative effort designed to promote degree 70547
completion of students, workforce training of employees, and 70548
professional development through the use of advanced 70549
telecommunications and distance education initiatives. 70550

ACCESS CHALLENGE 70551

In each fiscal year, the foregoing appropriation item 70552
235-418, Access Challenge, shall be distributed to Ohio's 70553
state-assisted access colleges and universities. For the purposes 70554
of this allocation, "access campuses" includes state-assisted 70555
community colleges, state community colleges, technical colleges, 70556
Shawnee State University, Central State University, Cleveland 70557
State University, the regional campuses of state-assisted 70558
universities, and, where they are organizationally distinct and 70559
identifiable, the community-technical colleges located at the 70560
University of Cincinnati, Youngstown State University, and the 70561
University of Akron. 70562

The purpose of Access Challenge is to reduce the student 70563
share of costs for resident undergraduates enrolled in lower 70564
division undergraduate courses at Ohio's access campuses. The 70565
long-term goal is to make the student share of costs for these 70566
students equivalent to the student share of costs for resident 70567
undergraduate students enrolled throughout Ohio's public colleges 70568
and universities. Access Challenge appropriations shall be used in 70569
both years of the biennium to sustain, as much as possible, the 70570

tuition restraint or tuition reduction that was achieved with 70571
Access Challenge allocations in prior years. 70572

In fiscal year 2004, Access Challenge subsidies shall be 70573
distributed by the Board of Regents to eligible access campuses on 70574
the basis of the average of each campus's share of fiscal year 70575
2001 and 2002 all-terms subsidy-eligible General Studies FTEs. In 70576
fiscal year 2005, Access Challenge subsidies shall be distributed 70577
by the Board of Regents to eligible access campuses on the basis 70578
of the average of each campus's share of fiscal year 2002 and 2003 70579
all-terms subsidy-eligible General Studies FTEs. 70580

For the purposes of this calculation, Cleveland State 70581
University's enrollments shall be adjusted by the ratio of the sum 70582
of subsidy-eligible lower-division FTE student enrollments 70583
eligible for access funding to the sum of subsidy-eligible General 70584
Studies FTE student enrollments at Central State University and 70585
Shawnee State University, and for the following universities and 70586
their regional campuses: the Ohio State University, Ohio 70587
University, Kent State University, Bowling Green State University, 70588
Miami University, the University of Cincinnati, the University of 70589
Akron, and Wright State University. 70590

SUCCESS CHALLENGE 70591

The foregoing appropriation item 235-420, Success Challenge, 70592
shall be used by the Board of Regents to promote degree completion 70593
by students enrolled at a main campus of a state-assisted 70594
university. 70595

In each fiscal year, two-thirds of the appropriations shall 70596
be distributed to state-assisted university main campuses in 70597
proportion to each campus's share of the total statewide 70598
bachelor's degrees granted by university main campuses to 70599
"at-risk" students. In fiscal years 2004 and 2005, an "at-risk" 70600
student means any undergraduate student who was eligible to 70601

receive an Ohio Instructional Grant during the past ten years. An 70602
eligible institution shall not receive its share of this 70603
distribution until it has submitted a plan that addresses how the 70604
subsidy will be used to better serve at-risk students and increase 70605
their likelihood of successful completion of a bachelor's degree 70606
program. The Board of Regents shall disseminate to all 70607
state-supported institutions of higher education all such plans 70608
submitted by institutions that received Success Challenge funds. 70609

In each fiscal year, one-third of the appropriations shall be 70610
distributed to university main campuses in proportion to each 70611
campus's share of the total bachelor's degrees granted by 70612
university main campuses to undergraduate students who completed 70613
their bachelor's degrees in a "timely manner" in the previous 70614
fiscal year. For the purposes of this section, "timely manner" 70615
means the normal time it would take for a full-time degree-seeking 70616
undergraduate student to complete the student's degree. Generally, 70617
for such students pursuing a bachelor's degree, "timely manner" 70618
means four years. Exceptions to this general rule shall be 70619
permitted for students enrolled in programs specifically designed 70620
to be completed in a longer time period. The Board of Regents 70621
shall collect data to assess the timely completion statistics by 70622
university main campuses. 70623

APPALACHIAN NEW ECONOMY PARTNERSHIP 70624

The foregoing appropriation item 235-428, Appalachian New 70625
Economy Partnership, shall be distributed to Ohio University to 70626
continue a multi-campus and multi-agency coordinated effort to 70627
link Appalachia to the new economy. Ohio University shall use 70628
these funds to provide leadership in the development and 70629
implementation of initiatives in the areas of entrepreneurship, 70630
management, education, and technology. 70631

EMINENT SCHOLARS 70632

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. Ohio Eminent Scholars endowed chairs will allow Ohio universities to recruit senior faculty members from outside Ohio who are nationally and internationally recognized scholars in areas of science and technology that provide the basic research platforms on which our technology and commercialization efforts are built. 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. The grants shall have as their purpose attracting and sustaining in Ohio scholar-leaders of national or international prominence; each will assist in accelerating state economic growth through research that provides an essential basic science platform for commercialization efforts. 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 and collaborate with other state technology programs and program recipients.

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 70665
development goals. The Board of Regents, in consultation with the 70666
colleges and universities, shall administer the Research Challenge 70667
Program and utilize a means of matching, on a fractional basis, 70668
external funds attracted in the previous year by institutions for 70669
basic research. The program may include incentives for increasing 70670
the amount of external research funds coming to eligible 70671
institutions and for focusing research efforts upon critical state 70672
needs. Colleges and universities shall submit for review and 70673
approval to the Board of Regents plans for the institutional 70674
allocation of state dollars received through the program. The 70675
institutional plans shall provide the rationale for the allocation 70676
in terms of the strategic targeting of funds for academic and 70677
state purposes, for strengthening research programs, for 70678
increasing the amount of external research funds, and shall 70679
include an evaluation process to provide results of the increased 70680
support. Each institutional plan for the investment of Research 70681
Challenge moneys shall report on existing, planned, and/or 70682
possible relationships with other State of Ohio science and 70683
technology programs and funding recipients in order to further 70684
ongoing statewide science and technology collaboration objectives. 70685
The Board of Regents shall submit a biennial report of progress to 70686
the General Assembly. 70687

ENTERPRISEOHIO NETWORK 70688

The foregoing appropriation item 235-455, EnterpriseOhio 70689
Network, shall be allocated by the Board of Regents to continue 70690
increasing the capabilities of the EnterpriseOhio Network to meet 70691
the ongoing training needs of Ohio employers. Funds shall support 70692
multicampus collaboration, best practice dissemination, and 70693
capacity building projects. The Regents Advisory Committee for 70694
Workforce Development, in its advisory role, shall advise in the 70695
development of plans and activities. 70696

Of the foregoing appropriation item 235-455, EnterpriseOhio Network, \$181,101 in fiscal year 2004 and \$176,334 in fiscal year 2005 shall be used by the Dayton Business/Sinclair College Jobs Profiling Program.

Section 88.03. AREA HEALTH EDUCATION CENTERS

The foregoing appropriation item 235-474, Area Health Education Centers Program Support, shall be used by the Board of Regents to support the medical school regional area health education centers' educational programs for the continued support of medical and other health professions education and for support of the Area Health Education Center Program.

Of the foregoing appropriation item 235-474, Area Health Education Centers Program Support, \$174,135 in fiscal year 2004 and \$169,782 in fiscal year 2005 shall be disbursed to the Ohio University College of Osteopathic Medicine to operate a mobile health care unit to serve the southeastern area of the state. Of the foregoing appropriation item 235-474, Area Health Education Centers Program Support, \$130,601 in fiscal year 2004 and \$127,337 in fiscal year 2005 shall be used to support the Ohio Valley Community Health Information Network (OVCHIN) project.

ACCESS IMPROVEMENT PROJECTS

The foregoing appropriation item 235-477, Access Improvement Projects, shall be used by the Board of Regents to support innovative statewide strategies to increase student access and retention for specialized populations, and to provide for pilot projects that will contribute to improving access to higher education by specialized populations. The funds may be used for projects that improve access for nonpublic secondary students.

Of the foregoing appropriation item 235-477, Access Improvement Projects, \$798,684 in fiscal year 2004 and \$822,645 in

fiscal year 2005 shall be distributed to the Ohio Appalachian 70727
Center for Higher Education at Shawnee State University. The board 70728
of directors of the center shall consist of the presidents of 70729
Shawnee State University, Ohio University, Belmont Technical 70730
College, Hocking Technical College, Jefferson Community College, 70731
Muskingum Area Technical College, Rio Grande Community College, 70732
Southern State Community College, and Washington State Community 70733
College; the dean of one of the Salem, Tuscarawas, and East 70734
Liverpool regional campuses of Kent State University, as 70735
designated by the president of Kent State University; and a 70736
representative of the Board of Regents designated by the 70737
Chancellor. 70738

Of the foregoing appropriation item 235-477, Access 70739
Improvement Projects, \$169,553 in fiscal year 2004 and \$174,640 in 70740
fiscal year 2005 shall be distributed to Miami University for the 70741
Student Achievement in Research and Scholarship (STARS) Program. 70742

Section 88.04. STATE SHARE OF INSTRUCTION 70743

As soon as practicable during each fiscal year of the 70744
2003-2005 biennium in accordance with instructions of the Board of 70745
Regents, each state-assisted institution of higher education shall 70746
report its actual enrollment to the Board of Regents. 70747

The Board of Regents shall establish procedures required by 70748
the system of formulas set out below and for the assignment of 70749
individual institutions to categories described in the formulas. 70750
The system of formulas establishes the manner in which aggregate 70751
expenditure requirements shall be determined for each of the three 70752
components of institutional operations. In addition to other 70753
adjustments and calculations described below, the subsidy 70754
entitlement of an institution shall be determined by subtracting 70755
from the institution's aggregate expenditure requirements income 70756
to be derived from the local contributions assumed in calculating 70757

the subsidy entitlements. The local contributions for purposes of 70758
determining subsidy support shall not limit the authority of the 70759
individual boards of trustees to establish fee levels. 70760

The General Studies and Technical models shall be adjusted by 70761
the Board of Regents so that the share of state subsidy earned by 70762
those models is not altered by changes in the overall local share. 70763
A lower-division fee differential shall be used to maintain the 70764
relationship that would have occurred between these models and the 70765
baccalaureate models had an assumed share of 37 per cent been 70766
funded. 70767

In defining the number of full-time equivalent (FTE) students 70768
for state subsidy purposes, the Board of Regents shall exclude all 70769
undergraduate students who are not residents of Ohio, except those 70770
charged in-state fees in accordance with reciprocity agreements 70771
made pursuant to section 3333.17 of the Revised Code or employer 70772
contracts entered into pursuant to section 3333.32 of the Revised 70773
Code. 70774

(A) AGGREGATE EXPENDITURE PER FULL-TIME EQUIVALENT STUDENT 70775

(1) INSTRUCTION AND SUPPORT SERVICES 70776

MODEL	FY 2004	FY 2005	
General Studies I	\$ 4,947	\$ 4,983	70778
General Studies II	\$ 5,323	\$ 5,336	70779
General Studies III	\$ 6,883	\$ 7,120	70780
Technical I	\$ 5,913	\$ 6,137	70781
Technical III	\$ 9,522	\$ 10,026	70782
Baccalaureate I	\$ 7,623	\$ 7,721	70783
Baccalaureate II	\$ 8,584	\$ 8,864	70784
Baccalaureate III	\$ 12,559	\$ 12,932	70785
Masters and Professional I	\$ 15,867	\$ 18,000	70786
Masters and Professional II	\$ 20,861	\$ 22,141	70787
Masters and Professional III	\$ 27,376	\$ 28,190	70788
Medical I	\$ 30,867	\$ 31,819	70789

Medical II	\$ 41,495	\$ 41,960	70790
MPD I	\$ 14,938	\$ 14,966	70791

(2) STUDENT SERVICES 70792

For this purpose, FTE counts shall be weighted to reflect 70793
differences among institutions in the numbers of students enrolled 70794
on a part-time basis. The student services subsidy per FTE shall 70795
be \$822 in fiscal year 2004 and \$903 in fiscal year 2005 for all 70796
models. 70797

(B) PLANT OPERATION AND MAINTENANCE (POM) 70798

(1) DETERMINATION OF THE SQUARE-FOOT-BASED POM SUBSIDY 70799

Space undergoing renovation shall be funded at the rate 70800
allowed for storage space. 70801

In the calculation of square footage for each campus, square 70802
footage shall be weighted to reflect differences in space 70803
utilization. 70804

The space inventories for each campus shall be those 70805
determined in the fiscal year 2003 state share of instruction 70806
calculation, adjusted for changes attributable to the construction 70807
or renovation of facilities for which state appropriations were 70808
made or local commitments were made prior to January 1, 1995. 70809

Only 50 per cent of the space permanently taken out of 70810
operation in fiscal year 2004 or fiscal year 2005 that is not 70811
otherwise replaced by a campus shall be deleted from the plant 70812
operation and maintenance space inventory. 70813

The square-foot-based plant operation and maintenance subsidy 70814
for each campus shall be determined as follows: 70815

(a) For each standard room type category shown below, the 70816
subsidy-eligible net assignable square feet (NASF) for each campus 70817
shall be multiplied by the following rates, and the amounts summed 70818
for each campus to determine the total gross square-foot-based POM 70819

expenditure requirement:			70820
	FY 2004	FY 2005	70821
Classrooms	\$5.80	\$6.04	70822
Laboratories	\$7.22	\$7.53	70823
Offices	\$5.80	\$6.04	70824
Audio Visual Data Processing	\$7.22	\$7.53	70825
Storage	\$2.57	\$2.68	70826
Circulation	\$7.31	\$7.62	70827
Other	\$5.80	\$6.04	70828

(b) The total gross square-foot POM expenditure requirement shall be allocated to models in proportion to FTE enrollments as reported in enrollment data for all models except Doctoral I and Doctoral II.

(c) The amounts allocated to models in division (B)(1)(b) of this section shall be multiplied by the ratio of subsidy-eligible FTE students to total FTE students reported in each model, and the amounts summed for all models. To this total amount shall be added an amount to support roads and grounds expenditures to produce the total square-foot-based POM subsidy.

(2) DETERMINATION OF THE ACTIVITY-BASED POM SUBSIDY

(a) The number of subsidy-eligible FTE students in each model shall be multiplied by the following rates for each campus for each fiscal year.

	FY 2004	FY 2005	
General Studies I	\$ 552	\$ 560	70843
General Studies II	\$ 696	\$ 705	70844
General Studies III	\$1,608	\$1,651	70845
Technical I	\$ 777	\$ 806	70846
Technical III	\$1,501	\$1,570	70847
Baccalaureate I	\$ 700	\$ 706	70848
Baccalaureate II	\$1,250	\$1,232	70849
Baccalaureate III	\$1,520	\$1,458	70850

Masters and Professional I	\$1,258	\$1,301	70852
Masters and Professional II	\$2,817	\$2,688	70853
Masters and Professional III	\$3,832	\$3,712	70854
Medical I	\$2,663	\$2,669	70855
Medical II	\$3,837	\$4,110	70856
MPD I	\$1,213	\$1,233	70857

(b) The sum of the products for each campus determined in 70858
division (B)(2)(a) of this section for all models except Doctoral 70859
I and Doctoral II for each fiscal year shall be weighted by a 70860
factor to reflect sponsored research activity and job 70861
training-related public services expenditures to determine the 70862
total activity-based POM subsidy. 70863

(C) CALCULATION OF CORE SUBSIDY ENTITLEMENTS AND ADJUSTMENTS 70864

(1) CALCULATION OF CORE SUBSIDY ENTITLEMENTS 70865

The calculation of the core subsidy entitlement shall consist 70866
of the following components: 70867

(a) For each campus and for each fiscal year, the core 70868
subsidy entitlement shall be determined by multiplying the amounts 70869
listed above in divisions (A)(1) and (2) and (B)(2) of this 70870
section less assumed local contributions, by (i) average 70871
subsidy-eligible FTEs for the two-year period ending in the prior 70872
year for all models except Doctoral I and Doctoral II; and (ii) 70873
average subsidy-eligible FTEs for the five-year period ending in 70874
the prior year for all models except Doctoral I and Doctoral II. 70875

(b) In calculating the core subsidy entitlements for Medical 70876
II models only, the Board of Regents shall use the following count 70877
of FTE students: 70878

(i) For those medical schools whose current year enrollment, 70879
including students repeating terms, is below the base enrollment, 70880
the Medical II FTE enrollment shall equal: 65 per cent of the base 70881
enrollment plus 35 per cent of the current year enrollment 70882

including students repeating terms, where the base enrollment is: 70883

The Ohio State University	1010	70884
University of Cincinnati	833	70885
Medical College of Ohio at Toledo	650	70886
Wright State University	433	70887
Ohio University	433	70888
Northeastern Ohio Universities College of Medicine	433	70889

(ii) For those medical schools whose current year enrollment, 70890
excluding students repeating terms, is equal to or greater than 70891
the base enrollment, the Medical II FTE enrollment shall equal the 70892
base enrollment plus the FTE for repeating students. 70893

(iii) Students repeating terms may be no more than five per 70894
cent of current year enrollment. 70895

(c) The Board of Regents shall compute the sum of the two 70896
calculations listed in division (C)(1)(a) of this section and use 70897
the greater sum as the core subsidy entitlement. 70898

The POM subsidy for each campus shall equal the greater of 70899
the square-foot-based subsidy or the activity-based POM subsidy 70900
component of the core subsidy entitlement. 70901

(d) The state share of instruction provided for doctoral 70902
students shall be based on a fixed percentage of the total 70903
appropriation. In each fiscal year of the biennium not more than 70904
10.0 per cent of the total state share of instruction shall be 70905
reserved to implement the recommendations of the Graduate Funding 70906
Commission. It is the intent of the General Assembly that the 70907
doctoral reserve not exceed 10.0 per cent of the total state share 70908
of instruction to implement the recommendations of the Graduate 70909
Funding Commission. The Board of Regents may reallocate up to two 70910
per cent in each fiscal year of the reserve among the 70911
state-assisted universities on the basis of a quality review as 70912

specified in the recommendations of the Graduate Funding 70913
Commission. No such reallocation shall occur unless the Board of 70914
Regents, in consultation with representatives of state-assisted 70915
universities, determines that sufficient funds are available for 70916
this purpose. 70917

The amount so reserved shall be allocated to universities in 70918
proportion to their share of the total number of Doctoral I 70919
equivalent FTEs as calculated on an institutional basis using the 70920
greater of the two-year or five-year FTEs for the period fiscal 70921
year 1994 through fiscal year 1998 with annualized FTEs for fiscal 70922
years 1994 through 1997 and all-term FTEs for fiscal year 1998 as 70923
adjusted to reflect the effects of doctoral review and subsequent 70924
changes in Doctoral I equivalent enrollments. For the purposes of 70925
this calculation, Doctoral I equivalent FTEs shall equal the sum 70926
of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs. 70927

(2) ANNUAL STATE SHARE OF INSTRUCTION FUNDING GUARANTEE 70928

In addition to and after the other adjustment noted above, in 70929
fiscal years 2004 and 2005 each campus shall have its state share 70930
of instruction adjusted to the extent necessary to meet the 70931
following provisions: 70932

(a) If the total state share of instruction appropriation 70933
relative to the prior year is 102 per cent or greater, no campus 70934
shall receive a state share of instruction allocation that is less 70935
than 99 per cent of the prior year's state share of instruction 70936
amount; 70937

(b) If the total state share of instruction appropriation 70938
relative to the prior year is greater than 95 per cent but less 70939
than 102 per cent, no campus shall receive a state share of 70940
instruction allocation that is less than three percentage points 70941
below the percentage change in the total state share of 70942
instruction percentage change; 70943

(c) If the total share of instruction appropriation relative to the prior year is 95 per cent or less, no campus shall receive a state share of instruction allocation that is less than 2.5 percentage points below the percentage change in the total state share of instruction percentage change.

(3) CAPITAL COMPONENT DEDUCTION

After all other adjustments have been made, state share of instruction earnings shall be reduced for each campus by the amount, if any, by which debt service charged in Am. H.B. No. 748 of the 121st General Assembly, Am. Sub. H.B. No. 850 of the 122nd General Assembly, Am. H.B. No. 640 of the 123rd General Assembly, and H.B. No. 675 of the 124th General Assembly for that campus exceeds that campus's capital component earnings. The sum of the amounts deducted shall be transferred to appropriation line item 235-552, Capital Component, in each fiscal year.

(D) REDUCTIONS IN EARNINGS

If the total state share of instruction earnings in any fiscal year exceed the total appropriations available for such purposes, the Board of Regents shall proportionately reduce the state share of instruction earnings for all campuses by a uniform percentage so that the system wide sum equals available appropriations.

(E) EXCEPTIONAL CIRCUMSTANCES

Adjustments may be made to the state share of instruction payments and other subsidies distributed by the Board of Regents to state-assisted colleges and universities for exceptional circumstances. No adjustments for exceptional circumstances may be made without the recommendation of the Chancellor and the approval of the Controlling Board.

(F) MID-YEAR APPROPRIATION REDUCTIONS TO THE STATE SHARE OF

INSTRUCTION	70974
The standard provisions of the state share of instruction calculation as described in the preceding sections of temporary law shall apply to any reductions made to appropriation line item 235-501, State Share of Instruction, before the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year.	70975 70976 70977 70978 70979 70980
Any reductions made to appropriation line item 235-501, State Share of Instruction, after the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year, shall be uniformly applied to each campus in proportion to its share of the final allocation.	70981 70982 70983 70984 70985
(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION	70986
The state share of instruction payments to the institutions shall be in substantially equal monthly amounts during the fiscal year, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. Payments during the first six months of the fiscal year shall be based upon the state share of instruction appropriation estimates made for the various institutions of higher education according to Board of Regents enrollment estimates. Payments during the last six months of the fiscal year shall be distributed after approval of the Controlling Board upon the request of the Board of Regents.	70987 70988 70989 70990 70991 70992 70993 70994 70995 70996
(H) LAW SCHOOL SUBSIDY	70997
The state share of instruction to state-supported universities for students enrolled in law schools in fiscal year 2004 and fiscal year 2005 shall be calculated by using the number of subsidy-eligible FTE law school students funded by state subsidy in fiscal year 1995 or the actual number of subsidy-eligible FTE law school students at the institution in the fiscal year, whichever is less.	70998 70999 71000 71001 71002 71003 71004

Section 88.05. HIGHER EDUCATION - BOARD OF TRUSTEES 71005

Funds appropriated for instructional subsidies at colleges 71006
and universities may be used to provide such branch or other 71007
off-campus undergraduate courses of study and such master's degree 71008
courses of study as may be approved by the Board of Regents. 71009

In providing instructional and other services to students, 71010
boards of trustees of state-assisted institutions of higher 71011
education shall supplement state subsidies by income from charges 71012
to students. Each board shall establish the fees to be charged to 71013
all students, including an instructional fee for educational and 71014
associated operational support of the institution and a general 71015
fee for noninstructional services, including locally financed 71016
student services facilities used for the benefit of enrolled 71017
students. The instructional fee and the general fee shall 71018
encompass all charges for services assessed uniformly to all 71019
enrolled students. Each board may also establish special purpose 71020
fees, service charges, and fines as required; such special purpose 71021
fees and service charges shall be for services or benefits 71022
furnished individual students or specific categories of students 71023
and shall not be applied uniformly to all enrolled students. A 71024
tuition surcharge shall be paid by all students who are not 71025
residents of Ohio. 71026

The boards of trustees of individual state-assisted 71027
universities, university branch campuses, community colleges, 71028
state community colleges, and technical colleges shall limit 71029
in-state undergraduate instructional and general fee increases for 71030
an academic year over the amounts charged in the prior academic 71031
year to no more than six per cent. In addition to the six per cent 71032
main campus in-state undergraduate instructional and general fee 71033
increase limit established in this section, the Board of Trustees 71034
of The Ohio State University may authorize an additional 71035

university main campus in-state undergraduate instructional and 71036
general fee increase of three per cent for academic years 71037
2003-2004 and 2004-2005. The Board of Trustees of The Ohio State 71038
University and individual state-assisted universities, university 71039
branch campuses, community colleges, state community colleges, and 71040
technical colleges with instructional and general fees below the 71041
average for their respective sector, may charge an additional fee 71042
of \$300 to in-coming students. The boards of trustees of 71043
individual state-assisted universities, university branch 71044
campuses, community colleges, state community colleges, and 71045
technical colleges shall not authorize combined instructional and 71046
general fee increases of more than six per cent in a single vote. 71047
These fee increase limitations apply even if an institutional 71048
board of trustees has, prior to the effective date of this 71049
section, voted to assess a higher fee for the 2003-2004 academic 71050
year. These limitations shall not apply to increases required to 71051
comply with institutional covenants related to their obligations 71052
or to meet unfunded legal mandates or legally binding obligations 71053
incurred or commitments made prior to the effective date of this 71054
act with respect to which the institution had identified such fee 71055
increases as the source of funds. Any increase required by such 71056
covenants and any such mandates, obligations, or commitments shall 71057
be reported by the Board of Regents to the Controlling Board. 71058
These limitations may also be modified by the Board of Regents, 71059
with the approval of the Controlling Board, to respond to 71060
exceptional circumstances as identified by the Board of Regents. 71061

The board of trustees of a state-assisted institution of 71062
higher education shall not authorize a waiver or nonpayment of 71063
instructional fees or general fees for any particular student or 71064
any class of students other than waivers specifically authorized 71065
by law or approved by the Chancellor. This prohibition is not 71066
intended to limit the authority of boards of trustees to provide 71067
for payments to students for services rendered the institution, 71068

nor to prohibit the budgeting of income for staff benefits or for 71069
student assistance in the form of payment of such instructional 71070
and general fees. 71071

Each state-assisted institution of higher education in its 71072
statement of charges to students shall separately identify the 71073
instructional fee, the general fee, the tuition charge, and the 71074
tuition surcharge. Fee charges to students for instruction shall 71075
not be considered to be a price of service but shall be considered 71076
to be an integral part of the state government financing program 71077
in support of higher educational opportunity for students. 71078

In providing the appropriations in support of instructional 71079
services at state-assisted institutions of higher education and 71080
the appropriations for other instruction it is the intent of the 71081
General Assembly that faculty members shall devote a proper and 71082
judicious part of their work week to the actual instruction of 71083
students. Total class credit hours of production per quarter per 71084
full-time faculty member is expected to meet the standards set 71085
forth in the budget data submitted by the Board of Regents. 71086

The authority of government vested by law in the boards of 71087
trustees of state-assisted institutions of higher education shall 71088
in fact be exercised by those boards. Boards of trustees may 71089
consult extensively with appropriate student and faculty groups. 71090
Administrative decisions about the utilization of available 71091
resources, about organizational structure, about disciplinary 71092
procedure, about the operation and staffing of all auxiliary 71093
facilities, and about administrative personnel shall be the 71094
exclusive prerogative of boards of trustees. Any delegation of 71095
authority by a board of trustees in other areas of responsibility 71096
shall be accompanied by appropriate standards of guidance 71097
concerning expected objectives in the exercise of such delegated 71098
authority and shall be accompanied by periodic review of the 71099
exercise of this delegated authority to the end that the public 71100

interest, in contrast to any institutional or special interest, 71101
shall be served. 71102

Section 88.06. STUDENT SUPPORT SERVICES 71103

The foregoing appropriation item 235-502, Student Support 71104
Services, shall be distributed by the Board of Regents to Ohio's 71105
state-assisted colleges and universities that incur 71106
disproportionate costs in the provision of support services to 71107
disabled students. 71108

OHIO INSTRUCTIONAL GRANTS 71109

Notwithstanding section 3333.12 of the Revised Code, in lieu 71110
of the tables in that section, instructional grants for all 71111
full-time students shall be made for fiscal year 2004 using the 71112
tables under this heading. 71113

The tables under this heading prescribe the maximum grant 71114
amounts covering two semesters, three quarters, or a comparable 71115
portion of one academic year. The grant amount for a full-time 71116
student enrolled in an eligible institution for a semester or 71117
quarter in addition to the portion of the academic year covered by 71118
a grant determined under these tables shall be a percentage of the 71119
maximum prescribed in the applicable table. The maximum grant for 71120
a fourth quarter shall be one-third of the maximum amount 71121
prescribed under the table. The maximum grant for a third semester 71122
shall be one-half of the maximum amount prescribed under the 71123
table. 71124

For a full-time student who is a dependent and enrolled in a 71125
nonprofit educational institution that is not a state-assisted 71126
institution and that has a certificate of authorization issued 71127
pursuant to Chapter 1713. of the Revised Code, the amount of the 71128
instructional grant for two semesters, three quarters, or a 71129
comparable portion of the academic year shall be determined in 71130

accordance with the following table:						71131
		Private Institution				71132
		Table of Grants				71133
					Maximum Grant \$5,466	71134
Gross Income					Number of Dependents	71135
		1	2	3	4	5 or more
						71136
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	71137
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466	71138
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466	71139
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466	71140
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466	71141
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920	71142
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362	71143
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828	71144
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288	71145
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736	71146
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178	71147
\$33,001 - \$34,000	888	984	1,080	1,344	1,626	71148
\$34,001 - \$35,000	444	888	984	1,080	1,344	71149
\$35,001 - \$36,000	--	444	888	984	1,080	71150
\$36,001 - \$37,000	--	--	444	888	984	71151
\$37,001 - \$38,000	--	--	--	444	888	71152
\$38,001 - \$39,000	--	--	--	--	444	71153

For a full-time student who is financially independent and 71154
enrolled in a nonprofit educational institution that is not a 71155
state-assisted institution and that has a certificate of 71156
authorization issued pursuant to Chapter 1713. of the Revised 71157
Code, the amount of the instructional grant for two semesters, 71158
three quarters, or a comparable portion of the academic year shall 71159
be determined in accordance with the following table: 71160

	Private Institution				71161
	Table of Grants				71162

	Maximum Grant \$5,466						71163
Gross Income	Number of Dependents						71164
	0	1	2	3	4	5 or more	71165
Under \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	71166
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	71167
\$5,301 - \$5,800	4,362	5,028	5,466	5,466	5,466	5,466	71168
\$5,801 - \$6,300	3,828	4,584	5,028	5,466	5,466	5,466	71169
\$6,301 - \$6,800	3,288	4,158	4,584	5,028	5,466	5,466	71170
\$6,801 - \$7,300	2,736	3,726	4,158	4,584	5,028	5,466	71171
\$7,301 - \$8,300	2,178	3,282	3,726	4,158	4,584	5,028	71172
\$8,301 - \$9,300	1,626	2,838	3,282	3,726	4,158	4,584	71173
\$9,301 - \$10,300	1,344	2,394	2,838	3,282	3,726	4,158	71174
\$10,301 - \$11,800	1,080	2,166	2,394	2,838	3,282	3,726	71175
\$11,801 - \$13,300	984	1,956	2,166	2,394	2,838	3,282	71176
\$13,301 - \$14,800	888	1,878	1,956	2,166	2,394	2,838	71177
\$14,801 - \$16,300	444	1,692	1,878	1,956	2,166	2,394	71178
\$16,301 - \$19,300	--	1,122	1,584	1,770	1,956	2,166	71179
\$19,301 - \$22,300	--	546	1,014	1,476	1,662	1,848	71180
\$22,301 - \$25,300	--	438	546	1,014	1,476	1,662	71181
\$25,301 - \$30,300	--	324	438	546	1,014	1,476	71182
\$30,301 - \$35,300	--	198	216	270	324	792	71183

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 career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 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:

Career Institution	71192
Table of Grants	71193
Maximum Grant \$4,632	71194

Gross Income	Number of Dependents					71195
	1	2	3	4	5 or more	71196
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	71197
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632	71198
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632	71199
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632	71200
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632	71201
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182	71202
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684	71203
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222	71204
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790	71205
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292	71206
\$32,001 - \$33,000	852	906	1,134	1,416	1,854	71207
\$33,001 - \$34,000	750	852	906	1,134	1,416	71208
\$34,001 - \$35,000	372	750	852	906	1,134	71209
\$35,001 - \$36,000	--	372	750	852	906	71210
\$36,001 - \$37,000	--	--	372	750	852	71211
\$37,001 - \$38,000	--	--	--	372	750	71212
\$38,001 - \$39,000	--	--	--	--	372	71213

For a full-time student who is financially independent and 71214
enrolled in an educational institution that holds a certificate of 71215
registration from the state board of career colleges and schools 71216
or a private institution exempt from regulation under Chapter 71217
3332. of the Revised Code as prescribed in section 3333.046 of the 71218
Revised Code, the amount of the instructional grant for two 71219
semesters, three quarters, or a comparable portion of the academic 71220
year shall be determined in accordance with the following table: 71221

Career Institution 71222

Table of Grants 71223

Maximum Grant \$4,632 71224

Gross Income	Number of Dependents					71225
	0	1	2	3	4	5 or

						more	
Under \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	71227
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632	71228
\$5,301 - \$5,800	3,684	4,272	4,632	4,632	4,632	4,632	71229
\$5,801 - \$6,300	3,222	3,876	4,272	4,632	4,632	4,632	71230
\$6,301 - \$6,800	2,790	3,504	3,876	4,272	4,632	4,632	71231
\$6,801 - \$7,300	2,292	3,156	3,504	3,876	4,272	4,632	71232
\$7,301 - \$8,300	1,854	2,760	3,156	3,504	3,876	4,272	71233
\$8,301 - \$9,300	1,416	2,412	2,760	3,156	3,504	3,876	71234
\$9,301 - \$10,300	1,134	2,058	2,412	2,760	3,156	3,504	71235
\$10,301 - \$11,800	906	1,836	2,058	2,412	2,760	3,156	71236
\$11,801 - \$13,300	852	1,650	1,836	2,058	2,412	2,760	71237
\$13,301 - \$14,800	750	1,608	1,650	1,836	2,058	2,412	71238
\$14,801 - \$16,300	372	1,434	1,608	1,650	1,836	2,058	71239
\$16,301 - \$19,300	--	942	1,338	1,518	1,650	1,836	71240
\$19,301 - \$22,300	--	456	858	1,242	1,416	1,560	71241
\$22,301 - \$25,300	--	372	456	858	1,242	1,416	71242
\$25,301 - \$30,300	--	282	372	456	858	1,242	71243
\$30,301 - \$35,300	--	168	180	228	282	666	71244

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:

	Public Institution					
	Table of Grants					
	Maximum Grant \$2,190					
Gross Income	Number of Dependents					
	1	2	3	4	5 or more	
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	71255
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190	71256
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190	71257

\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190	71258
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190	71259
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	71260
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	71261
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	71262
\$28,001 - \$31,000	522	648	864	1,080	1,320	71263
\$31,001 - \$32,000	420	522	648	864	1,080	71264
\$32,001 - \$33,000	384	420	522	648	864	71265
\$33,001 - \$34,000	354	384	420	522	648	71266
\$34,001 - \$35,000	174	354	384	420	522	71267
\$35,001 - \$36,000	--	174	354	384	420	71268
\$36,001 - \$37,000	--	--	174	354	384	71269
\$37,001 - \$38,000	--	--	--	174	354	71270
\$38,001 - \$39,000	--	--	--	--	174	71271

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:

Public Institution							71277
Table of Grants							71278
Maximum Grant \$2,190							71279
Gross Income	Number of Dependents						71280
	0	1	2	3	4	5 or more	71281
Under \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	71282
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	71283
\$5,301 - \$5,800	1,740	2,016	2,190	2,190	2,190	2,190	71284
\$5,801 - \$6,300	1,542	1,830	2,016	2,190	2,190	2,190	71285
\$6,301 - \$6,800	1,320	1,674	1,830	2,016	2,190	2,190	71286
\$6,801 - \$7,300	1,080	1,494	1,674	1,830	2,016	2,190	71287
\$7,301 - \$8,300	864	1,302	1,494	1,674	1,830	2,016	71288
\$8,301 - \$9,300	648	1,128	1,302	1,494	1,674	1,830	71289

\$9,301 - \$10,300	522	954	1,128	1,302	1,494	1,674	71290
\$10,301 - \$11,800	420	858	954	1,128	1,302	1,494	71291
\$11,801 - \$13,300	384	774	858	954	1,128	1,302	71292
\$13,301 - \$14,800	354	744	774	858	954	1,128	71293
\$14,801 - \$16,300	174	678	744	774	858	954	71294
\$16,301 - \$19,300	--	450	630	702	774	858	71295
\$19,301 - \$22,300	--	216	402	594	654	732	71296
\$22,301 - \$25,300	--	174	216	402	594	654	71297
\$25,301 - \$30,300	--	132	174	216	402	594	71298
\$30,301 - \$35,300	--	78	84	102	132	312	71299

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.

The unencumbered balance of appropriation item 235-503, Ohio Instructional Grants, at the end of fiscal year 2004 shall be transferred to fiscal year 2005 for use under the same appropriation item. The amounts transferred are hereby appropriated.

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.

Section 88.07. AIR FORCE INSTITUTE OF TECHNOLOGY 71322

The foregoing appropriation item 235-508, Air Force Institute 71323
of Technology, shall be used to strengthen the research and 71324
educational linkages between the Wright Patterson Air Force Base 71325
and institutions of higher education in Ohio. Of the foregoing 71326
appropriation item 235-508, Air Force Institute of Technology, 71327
\$1,741,350 in fiscal year 2004 and \$1,697,816 in fiscal year 2005 71328
shall be used for research projects that connect the Air Force 71329
Research Laboratories with university partners. The institute 71330
shall provide annual reports to the Third Frontier Commission, 71331
that discuss existing, planned, or possible collaborations between 71332
programs and funding recipients related to technology, research 71333
development, commercialization, and support for Ohio's economic 71334
development. 71335

Of the foregoing appropriation item 235-508, Air Force 71336
Institute of Technology, \$500,000 in each fiscal year shall be 71337
used to match federal dollars to support the Wright Brothers 71338
Institute. Funds shall be used by the Wright Brothers Institute to 71339
create or expand Ohio-based technology and commercial development 71340
collaborations between industry, academia, and government in areas 71341
which include carbon nano-tube materials technology, genome-based 71342
biotechnology, knowledge-creation information technology, 71343
cognitive systems modeling and engineering, or other related 71344
projects as deemed appropriate by the institute. 71345

DISPLACED HOMEMAKERS 71346

Out of the foregoing appropriation item 235-509, Displaced 71347
Homemakers, the Board of Regents shall continue funding pilot 71348
programs authorized in Am. Sub. H.B. No. 291 of the 115th General 71349
Assembly for the following centers: Cuyahoga Community College, 71350
University of Toledo, Southern State Community College, and Stark 71351
Technical College. The amount of \$26,120 in fiscal year 2004 and 71352

\$25,467 in fiscal year 2005 shall be used for the Baldwin-Wallace
Single Parents Reaching Out for Unassisted Tomorrows program. 71353
71354

OHIO SUPERCOMPUTER CENTER 71355

The foregoing appropriation item 235-510, Ohio Supercomputer 71356
Center, shall be used by the Board of Regents to support the 71357
operation of the center, located at The Ohio State University, as 71358
a statewide resource available to Ohio research universities both 71359
public and private. It is also intended that the center be made 71360
accessible to private industry as appropriate. Policies of the 71361
center shall be established by a governance committee, 71362
representative of Ohio's research universities and private 71363
industry, to be appointed by the Chancellor of the Board of 71364
Regents and established for this purpose. 71365

The Ohio Supercomputer Center shall report on expanding 71366
solutions-oriented, computational science services to industrial 71367
and other customers, including alignment programs and recipients, 71368
and develop a plan for a computational science initiative in 71369
collaboration with the Wright Centers of Innovation program and 71370
the Computer Science Graduate Studies Program. 71371

COOPERATIVE EXTENSION SERVICE 71372

The foregoing appropriation item 235-511, Cooperative 71373
Extension Service, shall be disbursed through the Board of Regents 71374
to The Ohio State University in monthly payments, unless otherwise 71375
determined by the Director of Budget and Management pursuant to 71376
section 126.09 of the Revised Code. 71377

Of the foregoing appropriation item 235-511, Cooperative 71378
Extension Service, \$182,842 in fiscal year 2004 and \$178,271 in 71379
fiscal year 2005 shall be used for additional staffing for county 71380
agents for expanded 4-H activities. Of the foregoing appropriation 71381
item 235-511, Cooperative Extension Service, \$182,842 in fiscal 71382
year 2004 and \$178,271 in fiscal year 2005 shall be used by the 71383

Cooperative Extension Service, through the Enterprise Center for 71384
Economic Development in cooperation with other agencies, for a 71385
public-private effort to create and operate a small business 71386
economic development program to enhance the development of 71387
alternatives to the growing of tobacco, and implement, through 71388
applied research and demonstration, the production and marketing 71389
of other high-value crops and value-added products. Of the 71390
foregoing appropriation item 235-511, Cooperative Extension 71391
Service, \$56,594 in fiscal year 2004 and \$55,179 in fiscal year 71392
2005 shall be used for farm labor mediation and education 71393
programs. Of the foregoing appropriation item 235-511, Cooperative 71394
Extension Service, \$187,195 in fiscal year 2004 and \$182,515 in 71395
fiscal year 2005 shall be used to support the Ohio State 71396
University Marion Enterprise Center. 71397

Of the foregoing appropriation item 235-511, Cooperative 71398
Extension Service, \$792,750 in fiscal year 2004 and \$772,931 in 71399
fiscal year 2005 shall be used to support the Ohio Watersheds 71400
Initiative. 71401

CENTRAL STATE SUPPLEMENT 71402

The foregoing appropriation item 235-514, Central State 71403
Supplement, shall be used by Central State University to keep 71404
undergraduate fees below the statewide average, consistent with 71405
its mission of service to many first-generation college students 71406
from groups historically underrepresented in higher education and 71407
from families with limited incomes. 71408

PERFORMANCE STANDARDS FOR MEDICAL EDUCATION 71409

The Board of Regents, in consultation with the state-assisted 71410
medical colleges, shall develop performance standards for medical 71411
education. Special emphasis in the standards shall be placed on 71412
attempting to ensure that at least 50 per cent of the aggregate 71413
number of students enrolled in state-assisted medical colleges 71414

continue to enter residency as primary care physicians. Primary 71415
care physicians are general family practice physicians, general 71416
internal medicine practitioners, and general pediatric care 71417
physicians. The Board of Regents shall monitor medical school 71418
performance in relation to their plans for reaching the 50 per 71419
cent systemwide standard for primary care physicians. 71420

Section 88.08. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF 71421
MEDICINE 71422

The foregoing appropriation item 235-515, Case Western 71423
Reserve University School of Medicine, shall be disbursed to Case 71424
Western Reserve University through the Board of Regents in 71425
accordance with agreements entered into as provided for by section 71426
3333.10 of the Revised Code, provided that the state support per 71427
full-time medical student shall not exceed that provided to 71428
full-time medical students at state universities. 71429

STATE UNIVERSITY CLINICAL TEACHING 71430

In each fiscal year the foregoing appropriation item, 71431
235-516, Clinical Teaching, shall be distributed by the Board of 71432
Regents to the medical schools at Ohio's state universities for 71433
medical clinical teaching programs. The funds shall be distributed 71434
as follows: 71435

The Ohio State University	\$14,660,591	71436
University of Cincinnati	\$12,058,138	71437
Medical College of Ohio at Toledo	\$9,398,665	71438
Wright State University	\$4,566,056	71439
Ohio University	\$4,414,144	71440
Northeastern Ohio Universities College of Medicine	\$4,539,942	71441

Of the amount allocated to Wright State University, \$146,640 71442
in each fiscal year of the biennium shall be for the use of Wright 71443
State University's Ellis Institute for Clinical Teaching Studies 71444
to operate the clinical facility to serve the Greater Dayton area. 71445

FAMILY PRACTICE, GERIATRIC MEDICINE, AND PRIMARY CARE 71446
RESIDENCIES 71447

The Board of Regents shall develop plans consistent with 71448
existing criteria and guidelines as may be required for the 71449
distribution of appropriation items 235-519, Family Practice, 71450
235-525, Geriatric Medicine, and 235-526, Primary Care 71451
Residencies. 71452

SHAWNEE STATE SUPPLEMENT 71453

The foregoing appropriation item 235-520, Shawnee State 71454
Supplement, shall be used by Shawnee State University as detailed 71455
by both of the following: 71456

(A) To allow Shawnee State University to keep its 71457
undergraduate fees below the statewide average, consistent with 71458
its mission of service to an economically depressed Appalachian 71459
region; 71460

(B) To allow Shawnee State University to employ new faculty 71461
to develop and teach in new degree programs that meet the needs of 71462
Appalachians. 71463

POLICE AND FIRE PROTECTION 71464

The foregoing appropriation item 235-524, Police and Fire 71465
Protection, shall be used for police and fire services in the 71466
municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, 71467
Portsmouth, Xenia Township (Greene County), and Rootstown 71468
Township, that may be used to assist these local governments in 71469
providing police and fire protection for the central campus of the 71470
state-affiliated university located therein. Each participating 71471
municipality and township shall receive an amount not less than 71472
two per cent of appropriations made for this purpose, but not more 71473
than \$5,000 each year. Funds shall be distributed according to the 71474
methodology employed by the Board of Regents in the previous 71475

biennium.	71476
PRIMARY CARE RESIDENCIES	71477
The foregoing appropriation item 235-526, Primary Care	71478
Residencies, shall be distributed in each fiscal year of the	71479
biennium, based on whether or not the institution has submitted	71480
and gained approval for a plan. If the institution does not have	71481
an approved plan, it shall receive five per cent less funding per	71482
student than it would have received from its annual allocation.	71483
The remaining funding shall be distributed among those	71484
institutions that meet or exceed their targets.	71485
OHIO AEROSPACE INSTITUTE	71486
The foregoing appropriation item 235-527, Ohio Aerospace	71487
Institute, shall be distributed by the Board of Regents under	71488
section 3333.042 of the Revised Code. The Board of Regents, in	71489
conjunction with the Third Frontier Commission, shall review the	71490
progress of the Ohio Aerospace Institute's efforts in the context	71491
of the original mission to support academic research and education	71492
in aerospace engineering. These findings will be used to determine	71493
whether or not the institute shall continue to receive state	71494
funding. If a determination is made to discontinue state support	71495
for the Ohio Aerospace Institute through this appropriation item,	71496
the Board of Regents may utilize this appropriation item to fund	71497
other initiatives that support the advancement of aerospace	71498
research or education in aerospace engineering.	71499
ACADEMIC SCHOLARSHIPS	71500
The foregoing appropriation item 235-530, Academic	71501
Scholarships, shall be used to provide academic scholarships to	71502
students under section 3333.22 of the Revised Code.	71503
STUDENT CHOICE GRANTS	71504
The foregoing appropriation item 235-531, Student Choice	71505

Grants, shall be used to support the Student Choice Grant Program 71506
created by section 3333.27 of the Revised Code. The unencumbered 71507
balance of appropriation item 235-531, Student Choice Grants, at 71508
the end of fiscal year 2004 shall be transferred to fiscal year 71509
2005 for use under the same appropriation item to maintain grant 71510
award amounts in fiscal year 2005 equal to the awards provided in 71511
fiscal year 2004. The amounts transferred are hereby appropriated. 71512

STUDENT WORKFORCE DEVELOPMENT GRANTS 71513

The foregoing appropriation item 235-534, Student Workforce 71514
Development Grants, shall be used to support the Student Workforce 71515
Development Grant Program. Of the appropriated funds available, 71516
the Board of Regents shall distribute grants to each eligible 71517
student in an academic year. The size of each grant award shall be 71518
determined by the Board of Regents based on the amount of funds 71519
available for the program. 71520

OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT CENTER 71521

The foregoing appropriation item 235-535, Ohio Agricultural 71522
Research and Development Center, shall be disbursed through the 71523
Board of Regents to The Ohio State University in monthly payments, 71524
unless otherwise determined by the Director of Budget and 71525
Management pursuant to section 126.09 of the Revised Code. The 71526
Ohio Agricultural Research and Development Center shall not be 71527
required to remit payment to The Ohio State University during the 71528
2003-2005 biennium for cost reallocation assessments. The cost 71529
reallocation assessments include, but are not limited to, any 71530
assessment on state appropriations to the center. The Ohio 71531
Agricultural Research and Development Center, in conjunction with 71532
the Third Frontier Commission, shall provide for an independently 71533
evaluated self-study of research excellence and commercial 71534
relevance in a manner to be prescribed by the Third Frontier 71535
Commission. 71536

Of the foregoing appropriation item 235-535, Ohio 71537
Agricultural Research and Development Center, \$470,164 in fiscal 71538
year 2004 and \$458,410 in fiscal year 2005 shall be used to 71539
purchase equipment. 71540

Of the foregoing appropriation item 235-535, Ohio 71541
Agricultural Research and Development Center, \$827,141 in fiscal 71542
year 2004 and \$806,463 in fiscal year 2005 shall be distributed to 71543
the Piketon Agricultural Research and Extension Center. 71544

Of the foregoing appropriation item 235-535, Ohio 71545
Agricultural Research and Development Center, \$217,669 in fiscal 71546
year 2004 and \$212,227 in fiscal year 2005 shall be distributed to 71547
the Raspberry/Strawberry-Ellagic Acid Research program at the Ohio 71548
State University Medical College in cooperation with the Ohio 71549
State University College of Agriculture. 71550

Of the foregoing appropriation item 235-535, Ohio 71551
Agricultural Research and Development Center, \$43,534 in fiscal 71552
year 2004 and \$42,445 in fiscal year 2005 shall be used to support 71553
the Ohio Berry Administrator. 71554

Of the foregoing appropriation item 235-535, Ohio 71555
Agricultural Research and Development Center, \$87,067 in fiscal 71556
year 2004 and \$84,890 in fiscal year 2005 shall be used for the 71557
development of agricultural crops and products not currently in 71558
widespread production in Ohio, in order to increase the income and 71559
viability of family farmers. 71560

SCHOOL OF INTERNATIONAL BUSINESS 71561

Of the foregoing appropriation item 235-547, School of 71562
International Business, \$1,061,148 in fiscal year 2004 and 71563
\$1,034,620 in fiscal year 2005 shall be used for the continued 71564
development and support of the School of International Business of 71565
the state universities of northeast Ohio. The money shall go to 71566
the University of Akron. These funds shall be used by the 71567

university to establish a School of International Business located 71568
at the University of Akron. It may confer with Kent State 71569
University, Youngstown State University, and Cleveland State 71570
University as to the curriculum and other matters regarding the 71571
school. 71572

Of the foregoing appropriation item 235-547, School of 71573
International Business, \$213,315 in fiscal year 2004 and \$207,982 71574
in fiscal year 2005 shall be used by the University of Toledo 71575
College of Business for expansion of its international business 71576
programs. 71577

Of the foregoing appropriation item 235-547, School of 71578
International Business, \$213,315 in fiscal year 2004 and \$207,982 71579
in fiscal year 2005 shall be used to support the Ohio State 71580
University BioMEMS program. 71581

PART-TIME STUDENT INSTRUCTIONAL GRANTS 71582

The foregoing appropriation item 235-549, Part-time Student 71583
Instructional Grants, shall be used to support a grant program for 71584
part-time undergraduate students who are Ohio residents and who 71585
are enrolled in degree granting programs. 71586

Eligibility for participation in the program shall include 71587
degree granting educational institutions that hold a certificate 71588
of registration from the State Board of Career Colleges and 71589
Schools, and nonprofit institutions that have a certificate of 71590
authorization issued pursuant to Chapter 1713. of the Revised 71591
Code, as well as state-assisted colleges and universities. Grants 71592
shall be given to students on the basis of need, as determined by 71593
the college, which, in making these determinations, shall give 71594
special consideration to single-parent heads-of-household and 71595
displaced homemakers who enroll in an educational degree program 71596
that prepares the individual for a career. In determining need, 71597
the college also shall consider the availability of educational 71598

assistance from a student's employer. It is the intent of the 71599
General Assembly that these grants not supplant such assistance. 71600

Section 88.09. CAPITAL COMPONENT 71601

The foregoing appropriation item 235-552, Capital Component, 71602
shall be used by the Board of Regents to implement the capital 71603
funding policy for state-assisted colleges and universities 71604
established in Am. H.B. No. 748 of the 121st General Assembly. 71605
Appropriations from this item shall be distributed to all campuses 71606
for which the estimated campus debt service attributable to new 71607
qualifying capital projects is less than the campus's 71608
formula-determined capital component allocation. Campus 71609
allocations shall be determined by subtracting the estimated 71610
campus debt service attributable to new qualifying capital 71611
projects from the campus's formula-determined capital component 71612
allocation. Moneys distributed from this appropriation item shall 71613
be restricted to capital-related purposes. 71614

Any campus for which the estimated campus debt service 71615
attributable to qualifying capital projects is greater than the 71616
campus's formula-determined capital component allocation shall 71617
have the difference subtracted from its State Share of Instruction 71618
allocation in each fiscal year. The sum of all such amounts shall 71619
be transferred from appropriation line item 235-501, State Share 71620
of Instruction, to appropriation line item 235-552, Capital 71621
Component. 71622

DAYTON AREA GRADUATE STUDIES INSTITUTE 71623

The foregoing appropriation item 235-553, Dayton Area 71624
Graduate Studies Institute, shall be used by the Board of Regents 71625
to support the Dayton Area Graduate Studies Institute, an 71626
engineering graduate consortium of three universities in the 71627
Dayton area: Wright State University, the University of Dayton, 71628
and the Air Force Institute of Technology, with the participation 71629

of the University of Cincinnati and The Ohio State University.	71630
COMPUTER SCIENCE GRADUATE EDUCATION	71631
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. Up to \$174,135 in fiscal year 2004, and up to \$169,782 in fiscal year 2005, may be used to support collaborative efforts in graduate education in this program area. The collaborative program shall be coordinated by the Ohio Supercomputer Center.	71632 71633 71634 71635 71636 71637 71638 71639
OHIO ACADEMIC RESOURCES NETWORK (OARNET)	71640
The foregoing appropriation item 235-556, Ohio Academic Resources Network, shall be used to support the operations of the Ohio Academic Resources Network, which shall include support for Ohio's state-assisted colleges and universities in maintaining and enhancing network connections. The network shall give priority to supporting the Third Frontier Network and allocating bandwidth to programs directly supporting Ohio's economic development.	71641 71642 71643 71644 71645 71646 71647
LONG-TERM CARE RESEARCH	71648
The foregoing appropriation item 235-558, Long-term Care Research, shall be disbursed to Miami University for long-term care research.	71649 71650 71651
BOWLING GREEN STATE UNIVERSITY CANADIAN STUDIES CENTER	71652
The foregoing appropriation item 235-561, Bowling Green State University Canadian Studies Center, shall be used by the Canadian Studies Center at Bowling Green State University to study opportunities for Ohio and Ohio businesses to benefit from the Free Trade Agreement between the United States and Canada.	71653 71654 71655 71656 71657
THE OHIO STATE UNIVERSITY CLINIC SUPPORT	71658
The foregoing appropriation item 235-572, The Ohio State	71659

University Clinic Support, shall be distributed through the Board 71660
of Regents to The Ohio State University for support of dental and 71661
veterinary medicine clinics. 71662

Section 88.10. URBAN UNIVERSITY PROGRAMS 71663

Of the foregoing appropriation item 235-583, Urban University 71664
Programs, universities receiving funds that are used to support an 71665
ongoing university unit shall certify periodically in a manner 71666
approved by the Board of Regents that program funds are being 71667
matched on a one-to-one basis with equivalent resources. Overhead 71668
support may not be used to meet this requirement. Where Urban 71669
University Program funds are being used to support an ongoing 71670
university unit, matching funds shall come from continuing rather 71671
than one-time sources. At each participating state-assisted 71672
institution of higher education, matching funds shall be within 71673
the substantial control of the individual designated by the 71674
institution's president as the Urban University Program 71675
representative. 71676

Of the foregoing appropriation item 235-583, Urban University 71677
Programs, \$324,239 in fiscal year 2004 and \$316,134 in fiscal year 71678
2005 shall be used to support a public communication outreach 71679
program (WCPN). The primary purpose of the program shall be to 71680
develop a relationship between Cleveland State University and 71681
nonprofit communications entities. 71682

Of the foregoing appropriation item 235-583, Urban University 71683
Programs, \$153,587 in fiscal year 2004 and \$149,748 in fiscal year 71684
2005 shall be used to support the Center for the Interdisciplinary 71685
Study of Education and the Urban Child at Cleveland State 71686
University. These funds shall be distributed according to rules 71687
adopted by the Board of Regents and shall be used by the center 71688
for interdisciplinary activities targeted toward increasing the 71689
chance of lifetime success of the urban child, including 71690

interventions beginning with the prenatal period. The primary 71691
purpose of the center is to study issues in urban education and to 71692
systematically map directions for new approaches and new solutions 71693
by bringing together a cadre of researchers, scholars, and 71694
professionals representing the social, behavioral, education, and 71695
health disciplines. 71696

Of the foregoing appropriation item 235-583, Urban University 71697
Programs, \$221,848 in fiscal year 2004 and \$216,302 in fiscal year 71698
2005 shall be used to support the Kent State University Learning 71699
and Technology Project. This project is a kindergarten through 71700
university collaboration between schools surrounding Kent's eight 71701
campuses in northeast Ohio, and corporate partners who will assist 71702
in development and delivery. 71703

The Kent State University Project shall provide a faculty 71704
member who has a full-time role in the development of 71705
collaborative activities and teacher instructional programming 71706
between Kent and the K-12th grade schools that surround its eight 71707
campuses; appropriate student support staff to facilitate these 71708
programs and joint activities; and hardware and software to 71709
schools that will make possible the delivery of instruction to 71710
pre-service and in-service teachers, and their students, in their 71711
own classrooms or school buildings. This shall involve the 71712
delivery of low-bandwidth streaming video and web-based 71713
technologies in a distributed instructional model. 71714

Of the foregoing appropriation item 235-583, Urban University 71715
Programs, \$85,326 in fiscal year 2004 and \$83,193 in fiscal year 71716
2005 year shall be used to support the Ameritech Classroom/Center 71717
for Research at Kent State University. 71718

Of the foregoing appropriation item 235-583, Urban University 71719
Programs, \$853,262 in fiscal year 2004 and \$831,930 in fiscal year 71720
2005 year shall be used to support the Polymer Distance Learning 71721
Project at the University of Akron. 71722

Of the foregoing appropriation item 235-583, Urban University Programs, \$42,663 in fiscal year 2004 and \$41,596 in fiscal year 2005 shall be distributed to the Kent State University/Cleveland Design Center program.

Of the foregoing appropriation item 235-583, Urban University Programs, \$213,315 in fiscal year 2004 and \$207,982 in fiscal year 2005 shall be used to support the Bliss Institute of Applied Politics at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Programs, \$12,800 in fiscal year 2004 and \$12,478 in fiscal year 2005 shall be used for the Advancing-Up Program at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Programs, \$1,877,723 in fiscal year 2004 and \$1,830,780 in fiscal year 2005 shall be distributed by the Board of Regents to Cleveland State University in support of the Maxine Goodman Levin College of Urban Affairs.

Of the foregoing appropriation item 235-583, Urban University Programs, \$1,877,723 in fiscal year 2004 and \$1,830,781 in fiscal year 2005 shall be distributed to the Northeast Ohio Research Consortium, the Urban Linkages Program, and the Urban Research Technical Assistance Grant Program. The distribution among the three programs shall be determined by the chair of the Urban University Program.

RURAL UNIVERSITY PROJECTS

Of the foregoing appropriation item 235-587, Rural University Projects, Bowling Green State University shall receive \$184,646 in fiscal year 2004 and \$180,029 in fiscal year 2005, Miami University shall receive \$282,537 in fiscal year 2004 and \$275,473 in fiscal year 2005, and Ohio University shall receive \$645,150 in fiscal year 2004 and \$629,021 in fiscal year 2005. These funds

shall be used to support the Institute for Local Government 71754
Administration and Rural Development at Ohio University, the 71755
Center for Public Management and Regional Affairs at Miami 71756
University, and the Center for Policy Analysis and Public Service 71757
at Bowling Green State University. 71758

Of the foregoing appropriation item 235-587, Rural University 71759
Projects, \$21,331 in fiscal year 2004 and \$20,798 in fiscal year 71760
2005 shall be used to support the Washington State Community 71761
College day care center. 71762

Of the foregoing appropriation item 235-587, Rural University 71763
Projects, \$63,995 in fiscal year 2004 and \$62,396 in fiscal year 71764
2005 shall be used to support the COAD/ILGARD/GOA Appalachian 71765
Leadership Initiative. 71766

A small portion of the funds provided to Ohio University 71767
shall also be used for the Institute for Local Government 71768
Administration and Rural Development State and Rural Policy 71769
Partnership with the Governor's Office of Appalachia and the 71770
Appalachian delegation of the General Assembly. 71771

**Section 88.11. OHIO RESOURCE CENTER FOR MATHEMATICS, SCIENCE, 71772
AND READING 71773**

The foregoing appropriation item 235-588, Ohio Resource 71774
Center for Mathematics, Science, and Reading, shall be used to 71775
support a resource center for mathematics, science, and reading to 71776
be located at a state-assisted university for the purpose of 71777
identifying best educational practices in primary and secondary 71778
schools and establishing methods for communicating them to 71779
colleges of education and school districts. 71780

INTERNATIONAL CENTER FOR WATER RESOURCES DEVELOPMENT 71781

The foregoing appropriation item 235-595, International 71782
Center for Water Resources Development, shall be used to support 71783

the International Center for Water Resources Development at 71784
Central State University. The center shall develop methods to 71785
improve the management of water resources for Ohio and for 71786
emerging nations. 71787

HAZARDOUS MATERIALS PROGRAM 71788

The foregoing appropriation item 235-596, Hazardous Materials 71789
Program, shall be disbursed to Cleveland State University for the 71790
operation of a program to certify firefighters for the handling of 71791
hazardous materials. Training shall be available to all Ohio 71792
firefighters. 71793

Of the foregoing appropriation item 235-596, Hazardous 71794
Materials Program, \$130,601 in fiscal year 2004 and \$127,337 in 71795
fiscal year 2005 shall be used to support the Center for the 71796
Interdisciplinary Study of Education and Leadership in Public 71797
Service at Cleveland State University. These funds shall be 71798
distributed by the Board of Regents and shall be used by the 71799
center targeted toward increasing the role of special populations 71800
in public service and not-for-profit organizations. The primary 71801
purpose of the center is to study issues in public service and to 71802
guide strategies for attracting new communities into public 71803
service occupations by bringing together a cadre of researchers, 71804
scholars and professionals representing the public administration, 71805
social behavioral, and education disciplines. 71806

NATIONAL GUARD SCHOLARSHIP PROGRAM 71807

The Board of Regents shall disburse funds from appropriation 71808
item 235-599, National Guard Scholarship Program, at the direction 71809
of the Adjutant General. 71810

* PLEDGE OF FEES 71811

Any new pledge of fees, or new agreement for adjustment of 71812
fees, made in the 2003-2005 biennium to secure bonds or notes of a 71813
state-assisted institution of higher education for a project for 71814

which bonds or notes were not outstanding on the effective date of 71815
this section shall be effective only after approval by the Board 71816
of Regents, unless approved in a previous biennium. 71817

HIGHER EDUCATION GENERAL OBLIGATION DEBT SERVICE 71818

The foregoing appropriation item 235-909, Higher Education 71819
General Obligation Debt Service, shall be used to pay all debt 71820
service and related financing costs at the times they are required 71821
to be made pursuant to sections 151.01 and 151.04 of the Revised 71822
Code during the period from July 1, 2003, to June 30, 2005. The 71823
Office of the Sinking Fund or the Director of Budget and 71824
Management shall effectuate the required payments by an interstate 71825
transfer voucher. 71826

Section 88.12. OHIO HIGHER EDUCATIONAL FACILITY COMMISSION 71827
SUPPORT 71828

The foregoing appropriation item 235-602, Higher Educational 71829
Facility Commission Administration, shall be used by the Board of 71830
Regents for operating expenses related to the Board of Regents' 71831
support of the activities of the Ohio Higher Educational Facility 71832
Commission. Upon the request of the chancellor, the Director of 71833
Budget and Management shall transfer up to \$20,000 cash from Fund 71834
461 to Fund 4E8 in each fiscal year of the biennium. 71835

PHYSICIAN LOAN REPAYMENT 71836

The foregoing appropriation item 235-604, Physician Loan 71837
Repayment, shall be used in accordance with sections 3702.71 to 71838
3702.81 of the Revised Code. 71839

NURSING LOAN PROGRAM 71840

The foregoing appropriation item 235-606, Nursing Loan 71841
Program, shall be used to administer the nurse education 71842
assistance program. Up to \$159,600 in fiscal year 2004 and 71843
\$167,580 in fiscal year 2005 may be used for operating expenses 71844

associated with the program. Any additional funds needed for the 71845
administration of the program are subject to Controlling Board 71846
approval. 71847

Section 88.13. SCIENCE AND TECHNOLOGY COLLABORATION 71848

The Board of Regents shall work in close collaboration with 71849
the Department of Development and the Third Frontier Commission in 71850
relation to appropriation items and programs listed in the 71851
following paragraph, and other technology-related appropriations 71852
and programs in the Department of Development and the Board of 71853
Regents as these agencies may designate, to ensure implementation 71854
of a coherent state strategy with respect to science and 71855
technology. 71856

Each of the following appropriations and programs: 194-401, 71857
Thomas Edison Program; 195-408, Coal Research Development; 71858
195-422, Third Frontier Action Fund; 195-632, Coal Research and 71859
Development Fund; 235-454, Research Challenge; 235-508, Air Force 71860
Institute of Technology; 235-510, Ohio Supercomputer Center; 71861
235-527, Ohio Aerospace Institute; 235-535, Ohio Agricultural 71862
Research and Development Center; 235-553, Dayton Area Graduate 71863
Studies Institute; 235-554, Computer Science Graduate Education; 71864
235-556, Ohio Academic Resources Network; and 195-405, Biomedical 71865
Research and Technology Transfer Trust, shall be reviewed annually 71866
by the Third Frontier Commission with respect to its development 71867
of complementary relationships within a combined state science and 71868
technology investment portfolio and its overall contribution to 71869
the state's science and technology strategy, including the 71870
adoption of appropriately consistent criteria for: (1) the 71871
scientific merit of activities supported by the program; (2) the 71872
relevance of the program's activities to commercial opportunities 71873
in the private sector; (3) the private sector's involvement in a 71874
process that continually evaluates commercial opportunities to use 71875

the work supported by the program; and (4) the ability of the 71876
program and recipients of grant funding from the program to engage 71877
in activities that are collaborative, complementary, and efficient 71878
with respect to the expenditure of state funds. All programs 71879
listed above shall provide annual reports to the Third Frontier 71880
Commission discussing existing, planned, or possible 71881
collaborations between programs and recipients of grant funding 71882
related to technology, development, commercialization, and 71883
supporting Ohio's economic development. The annual review by the 71884
Third Frontier Commission shall be a comprehensive review of the 71885
entire state science and technology program portfolio rather than 71886
a review of individual programs. 71887

REPAYMENT OF RESEARCH FACILITY INVESTMENT FUND MONEYS 71888

Notwithstanding any provision of law to the contrary, all 71889
repayments of Research Facility Investment Fund loans shall be 71890
made to the Bond Service Trust Fund. All Research Facility 71891
Investment Fund loan repayments made prior to the effective date 71892
of this section shall be transferred by the Director of Budget and 71893
Management to the Bond Service Trust Fund within sixty days of the 71894
effective date of this section. 71895

Campuses shall make timely repayments of Research Facility 71896
Investment Fund loans, according to the schedule established by 71897
the Board of Regents. In the case of late payments, the Board of 71898
Regents may deduct from an institution's periodic subsidy 71899
distribution an amount equal to the amount of the overdue payment 71900
for that institution, transfer such amount to the Bond Service 71901
Trust Fund, and credit the appropriate institution for the 71902
repayment. 71903

VETERANS' PREFERENCES 71904

The Board of Regents shall work with the Governor's Office of 71905
Veterans' Affairs to develop specific veterans' preference 71906

guidelines for higher education institutions. These guidelines 71907
 shall ensure that the institutions' hiring practices are in 71908
 accordance with the intent of Ohio's veterans' preference laws. 71909

Section 89. DRC DEPARTMENT OF REHABILITATION AND CORRECTION 71910

General Revenue Fund 71911

GRF 501-321 Institutional \$ 850,381,155 \$ 861,557,899 71912
 Operations

GRF 501-403 Prisoner Compensation \$ 8,705,052 \$ 8,705,052 71913

GRF 501-405 Halfway House \$ 35,140,139 \$ 35,579,419 71914

GRF 501-406 Lease Rental Payments \$ 141,997,000 \$ 146,307,900 71915

GRF 501-407 Community \$ 15,161,353 \$ 15,352,814 71916

Nonresidential

Programs

GRF 501-408 Community Misdemeanor \$ 7,942,211 \$ 8,041,489 71917

Programs

GRF 501-501 Community Residential \$ 52,220,123 \$ 52,872,875 71918

Programs - CBCF

GRF 502-321 Mental Health Services \$ 67,302,290 \$ 68,265,662 71919

GRF 503-321 Parole and Community \$ 77,695,938 \$ 78,845,845 71920

Operations

GRF 504-321 Administrative \$ 27,033,707 \$ 27,420,848 71921

Operations

GRF 505-321 Institution Medical \$ 118,406,940 \$ 120,014,320 71922

Services

GRF 506-321 Institution Education \$ 28,335,287 \$ 28,747,574 71923

Services

GRF 507-321 Institution Recovery \$ 7,018,500 \$ 7,124,516 71924

Services

TOTAL GRF General Revenue Fund \$ 1,437,339,695 \$ 1,458,836,213 71925

71926

General Services Fund Group 71927

4B0 501-601 Penitentiary Sewer \$ 1,693,129 \$ 1,758,177 71928

		Treatment Facility					
		Services					
4D4	501-603	Prisoner Programs	\$	16,537,291	\$	16,967,703	71929
4L4	501-604	Transitional Control	\$	1,348,740	\$	1,593,794	71930
4S5	501-608	Education Services	\$	4,452,754	\$	4,564,072	71931
483	501-605	Property Receipts	\$	383,894	\$	393,491	71932
5H8	501-617	Offender Financial	\$	735,000	\$	774,020	71933
		Responsibility					
5L6	501-611	Information Technology	\$	3,650,712	\$	3,741,980	71934
		Services					
571	501-606	Training Academy	\$	73,356	\$	75,190	71935
		Receipts					
593	501-618	Laboratory Services	\$	4,707,730	\$	4,825,423	71936
TOTAL	GSF	General Services Fund	\$	33,582,606	\$	34,693,850	71937
Group							
Federal Special Revenue Fund Group							71938
3S1	501-615	Truth-In-Sentencing	\$	24,604,435	\$	25,517,173	71939
		Grants					
323	501-619	Federal Grants	\$	10,759,329	\$	11,300,335	71940
TOTAL	FED	Federal Special Revenue					71941
Fund Group			\$	35,363,764	\$	36,817,508	71942
Intragovernmental Service Fund Group							71943
148	501-602	Services and	\$	95,207,653	\$	95,207,653	71944
		Agricultural					
200	501-607	Ohio Penal Industries	\$	29,748,175	\$	31,491,879	71945
TOTAL	ISF	Intragovernmental					71946
Service Fund Group			\$	124,955,828	\$	126,699,532	71947
TOTAL	ALL BUDGET FUND GROUPS		\$	1,631,241,893	\$	1,657,047,103	71948
OHIO BUILDING AUTHORITY LEASE PAYMENTS							71949
The foregoing appropriation item 501-406, Lease Rental							71950
Payments, shall be used for payments to the Ohio Building							71951
Authority for the period July 1, 2003, to June 30, 2005, pursuant							71952

to the primary leases and agreements for those buildings made 71953
under Chapter 152. of the Revised Code but limited to the 71954
aggregate amount of \$288,304,900. This appropriation amount is the 71955
source of funds pledged for bond service charges on related 71956
obligations issued pursuant to Chapter 152. of the Revised Code. 71957

PRISONER COMPENSATION 71958

Money from the foregoing appropriation item 501-403, Prisoner 71959
Compensation, shall be transferred on a quarterly basis by 71960
intrastate transfer voucher to the Services and Agricultural Fund 71961
(Fund 148) for the purposes of paying prisoner compensation. 71962

Section 90. RSC REHABILITATION SERVICES COMMISSION 71963

General Revenue Fund 71964

GRF 415-100	Personal Services	\$	8,677,911	\$	8,851,468	71965
-------------	-------------------	----	-----------	----	-----------	-------

GRF 415-402	Independent Living	\$	12,040	\$	12,280	71966
-------------	--------------------	----	--------	----	--------	-------

Council

GRF 415-403	Mental Health Services	\$	717,221	\$	717,221	71967
-------------	------------------------	----	---------	----	---------	-------

GRF 415-404	MR/DD Services	\$	1,260,816	\$	1,260,816	71968
-------------	----------------	----	-----------	----	-----------	-------

GRF 415-405	Vocational	\$	536,912	\$	536,912	71969
-------------	------------	----	---------	----	---------	-------

Rehabilitation/Job and
Family Services

GRF 415-406	Assistive Technology	\$	47,531	\$	47,531	71970
-------------	----------------------	----	--------	----	--------	-------

GRF 415-431	Office for People with	\$	182,364	\$	186,012	71971
-------------	------------------------	----	---------	----	---------	-------

Brain Injury

GRF 415-506	Services for People	\$	11,830,306	\$	12,185,215	71972
-------------	---------------------	----	------------	----	------------	-------

with Disabilities

GRF 415-509	Services for the	\$	359,377	\$	359,377	71973
-------------	------------------	----	---------	----	---------	-------

Elderly

GRF 415-520	Independent Living	\$	50,000	\$	50,000	71974
-------------	--------------------	----	--------	----	--------	-------

Services

TOTAL GRF	General Revenue Fund	\$	23,674,478	\$	24,206,832	71975
-----------	----------------------	----	------------	----	------------	-------

General Services Fund Group 71976

4W5	415-606	Administrative Expenses	\$	18,016,543	\$	18,557,040	71977
467	415-609	Business Enterprise Operating Expenses	\$	1,584,545	\$	1,632,082	71978
TOTAL GSF General Services							71979
Fund Group			\$	19,601,088	\$	20,189,122	71980
Federal Special Revenue Fund Group							71981
3L1	415-601	Social Security Personal Care Assistance	\$	3,984,486	\$	3,988,032	71982
3L1	415-605	Social Security Community Centers for the Deaf	\$	1,100,488	\$	1,100,488	71983
3L1	415-607	Social Security Administration Cost	\$	174,119	\$	175,860	71984
3L1	415-608	Social Security Special Programs/Assistance	\$	6,941,158	\$	6,941,158	71985
3L1	415-610	Social Security Vocational Rehabilitation	\$	1,338,324	\$	1,338,324	71986
3L1	415-614	Social Security Independent Living	\$	385,917	\$	385,917	71987
3L4	415-612	Federal-Independent Living Centers or Services	\$	663,687	\$	663,687	71988
3L4	415-615	Federal - Supported Employment	\$	1,714,546	\$	1,714,546	71989
3L4	415-617	Independent Living/Vocational Rehabilitation Programs	\$	1,582,484	\$	1,582,484	71990
317	415-620	Disability	\$	73,120,329	\$	76,776,343	71991

Determination						
379	415-616	Federal-Vocational	\$ 111,955,833	\$ 116,520,457		71992
Rehabilitation						
TOTAL FED Federal Special						71993
Revenue Fund Group			\$ 202,961,371	\$ 211,187,296		71994
State Special Revenue Fund Group						71995
4L1	415-619	Services for	\$ 3,623,845	\$ 2,559,070		71996
Rehabilitation						
468	415-618	Third Party Funding	\$ 892,991	\$ 892,991		71997
TOTAL SSR State Special						71998
Revenue Fund Group			\$ 4,516,836	\$ 3,452,061		71999
TOTAL ALL BUDGET FUND GROUPS			\$ 250,753,773	\$ 259,035,311		72000
MR/DD SERVICES						72001
The foregoing appropriation item 415-404, MR/DD Services,						72002
shall be used as state matching funds to provide vocational						72003
rehabilitation services to mutually eligible clients between the						72004
Rehabilitation Services Commission and the Department of Mental						72005
Retardation and Developmental Disabilities. The Rehabilitation						72006
Services Commission shall report to the Department of Mental						72007
Retardation and Developmental Disabilities, as outlined in an						72008
interagency agreement, on the number and status of mutually						72009
eligible clients and the status of the funds and expenditures for						72010
these clients.						72011
VOCATIONAL REHABILITATION/JOB AND FAMILY SERVICES						72012
The foregoing appropriation item 415-405, Vocational						72013
Rehabilitation/Job and Family Services, shall be used as state						72014
matching funds to provide vocational rehabilitation services to						72015
mutually eligible clients between the Rehabilitation Services						72016
Commission and the Department of Job and Family Services. The						72017
Rehabilitation Services Commission shall report to the Department						72018
of Job and Family Services, as outlined in an interagency						72019

agreement, on the number and status of mutually eligible clients 72020
and the status of the funds and expenditures for these clients. 72021

ASSISTIVE TECHNOLOGY 72022

The foregoing appropriation item 415-406, Assistive 72023
Technology, shall be provided to Assistive Technology of Ohio and 72024
shall be used only to provide grants under that program. No amount 72025
of the appropriation may be used for administrative costs. 72026

OFFICE FOR PEOPLE WITH BRAIN INJURY 72027

Of the foregoing appropriation item 415-431, Office for 72028
People with Brain Injury, \$50,000 in each fiscal year shall be 72029
used for the state match for a federal grant awarded through the 72030
Traumatic Brain Injury Act, Pub. L. No. 104-166, and up to \$50,000 72031
in fiscal year 2004 and up to \$50,000 in fiscal year 2005 shall be 72032
provided to the Brain Injury Trust Fund. The remaining 72033
appropriation in this item shall be used to plan and coordinate 72034
head-injury-related services provided by state agencies and other 72035
government or private entities, to assess the needs for such 72036
services, and to set priorities in this area. 72037

SERVICES FOR THE ELDERLY 72038

The foregoing appropriation item 415-509, Services for the 72039
Elderly, shall be used as matching funds for vocational 72040
rehabilitation services for eligible elderly citizens with a 72041
disability. 72042

SOCIAL SECURITY REIMBURSEMENT FUNDS 72043

Reimbursement funds received from the Social Security 72044
Administration, United States Department of Health and Human 72045
Services, for the costs of providing services and training to 72046
return disability recipients to gainful employment, shall be used 72047
in the Social Security Reimbursement Fund (Fund 3L1), as follows: 72048

(A) Appropriation item 415-601, Social Security Personal Care 72049

Assistance, to provide personal care services in accordance with 72050
section 3304.41 of the Revised Code; 72051

(B) Appropriation item 415-605, Social Security Community 72052
Centers for the Deaf, to provide grants to community centers for 72053
the deaf in Ohio for services to individuals with hearing 72054
impairments; 72055

(C) Appropriation item 415-607, Social Security 72056
Administration Cost, to provide administrative services needed to 72057
administer the Social Security reimbursement program; 72058

(D) Appropriation item 415-608, Social Security Special 72059
Programs/Assistance, to provide vocational rehabilitation services 72060
to individuals with severe disabilities, who are Social Security 72061
beneficiaries, to achieve competitive employment. This item also 72062
includes funds to assist the Personal Care Assistance, Community 72063
Centers for the Deaf, and Independent Living Programs to pay their 72064
share of indirect costs as mandated by federal OMB Circular A-87. 72065

(E) Appropriation item 415-610, Social Security Vocational 72066
Rehabilitation, to provide vocational rehabilitation services to 72067
older blind individuals with severe disabilities to achieve a 72068
noncompetitive employment goal. 72069

ADMINISTRATIVE EXPENSES 72070

The foregoing appropriation item 415-606, Administrative 72071
Expenses, shall be used to support the administrative functions of 72072
the commission related to the provision of vocational 72073
rehabilitation, disability determination services, and ancillary 72074
programs. 72075

INDEPENDENT LIVING COUNCIL 72076

The foregoing appropriation item 415-402, Independent Living 72077
Council, shall be used to fund the operations of the State 72078
Independent Living Council. 72079

MENTAL HEALTH SERVICES 72080

The foregoing appropriation item 415-403, Mental Health 72081
Services, shall be used for the provision of vocational 72082
rehabilitation services to mutually eligible consumers of the 72083
Rehabilitation Services Commission and the Department of Mental 72084
Health. 72085

The Department of Mental Health shall receive a quarterly 72086
report from the Rehabilitation Services Commission stating the 72087
numbers served, numbers placed in employment, average hourly wage, 72088
and average hours worked. 72089

INDEPENDENT LIVING SERVICES 72090

The foregoing appropriation items 415-520, Independent Living 72091
Services, and 415-612, Federal-Independent Living Centers or 72092
Services, shall be used to support state independent living 72093
centers or independent living services pursuant to Title VII of 72094
the Independent Living Services and Centers for Independent Living 72095
of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 72096
U.S.C. 796d. 72097

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS 72098

The foregoing appropriation item 415-617, Independent 72099
Living/Vocational Rehabilitation Programs, shall be used to 72100
support vocational rehabilitation programs, including, but not 72101
limited to, Projects with Industry, Training Grants, and Brain 72102
Injury Grants. 72103

PILOT PROGRAM FOR VOCATIONAL REHABILITATION 72104

During fiscal years 2004 and 2005, the Rehabilitation 72105
Services Commission may conduct a pilot program to provide 72106
vocational rehabilitation and related services to entities, 72107
employers, or individuals that are not eligible for state or 72108
federally supported services through the commission. The 72109

commission shall propose fees to be collected from the entities, 72110
employers, or individuals served by the pilot program for the 72111
approval of the Controlling Board to support the costs for 72112
vocational rehabilitation and related services provided under the 72113
pilot program. Fee revenues collected under the program shall be 72114
credited to Fund 468 (Third Party Funding). Prior to the 72115
commencement of services through the pilot program, the 72116
Rehabilitation Services Commission shall develop a program plan to 72117
be submitted to the Controlling Board. Any plan revisions or 72118
updates shall be reported to the Controlling Board. During the 72119
implementation of the pilot program, the Rehabilitation Services 72120
Commission shall investigate and determine the possibility of 72121
utilizing this source of revenue to match federal funds. The 72122
Rehabilitation Services Commission shall evaluate the progress of 72123
the pilot program and issue a report of its findings to the 72124
Governor by December 15, 2005. The report shall include a 72125
recommendation to either continue or discontinue the pilot program 72126
in the next biennium. 72127

Section 91. RCB RESPIRATORY CARE BOARD 72128

General Services Fund Group 72129
4K9 872-609 Operating Expenses \$ 318,499 \$ 315,481 72130
TOTAL GSF General Services 72131
Fund Group \$ 318,499 \$ 315,481 72132
TOTAL ALL BUDGET FUND GROUPS \$ 318,499 \$ 315,481 72133

Section 92. REVENUE DISTRIBUTION FUNDS 72135

Volunteer Firefighters' Dependents Fund 72136
085 800-900 Volunteer \$ 200,000 \$ 200,000 72137
Firefighters'
Dependents Fund
TOTAL 085 Volunteer Firefighters' 72138

Dependents Fund	\$	200,000	\$	200,000	72139
Agency Fund Group					72140
062 110-900 Resort Area Excise Tax	\$	500,000	\$	500,000	72141
063 110-900 Permissive Tax	\$	1,397,512,400	\$	1,439,437,700	72142
Distribution					
067 110-900 School District Income	\$	154,836,700	\$	161,030,200	72143
Tax Fund					
4P8 001-698 Cash Management	\$	2,500,000	\$	2,500,000	72144
Improvement Fund					
608 001-699 Investment Earnings	\$	174,300,000	\$	181,300,000	72145
TOTAL AGY Agency Fund Group	\$	1,729,649,100	\$	1,784,767,900	72146
Holding Account Redistribution					72147
R45 110-617 International Fuel Tax	\$	36,400,000	\$	37,200,000	72148
Distribution					
TOTAL R45 Holding Account	\$	36,400,000	\$	37,200,000	72149
Redistribution Fund					
Revenue Distribution Fund Group					72150
049 038-900 Indigent Drivers	\$	1,850,000	\$	1,850,000	72151
Alcohol Treatment					
050 762-900 International	\$	60,000,000	\$	60,000,000	72152
Registration Plan					
Distribution					
051 762-901 Auto Registration	\$	475,000,000	\$	486,875,000	72153
Distribution					
054 110-900 Local Government	\$	75,000,000	\$	75,000,000	72154
Property Tax					
Replacement					
060 110-900 Gasoline Excise Tax	\$	113,344,700	\$	115,611,600	72155
Fund					
064 110-900 Local Government	\$	99,500,000	\$	101,000,000	72156
Revenue Assistance					
065 110-900 Library/Local	\$	485,000,000	\$	495,000,000	72157
Government Support					

	Fund				
066	800-900	Undivided Liquor	\$ 13,500,000	\$ 13,500,000	72158
		Permit Fund			
068	110-900	State/Local Government	\$ 227,607,000	\$ 232,159,100	72159
		Highway Distribution			
		Fund			
069	110-900	Local Government Fund	\$ 712,100,000	\$ 718,000,000	72160
082	110-900	Horse Racing Tax	\$ 130,000	\$ 130,000	72161
083	700-900	Ohio Fairs Fund	\$ 3,150,000	\$ 3,150,000	72162
		TOTAL RDF Revenue Distribution			72163
		Fund Group	\$ 2,266,181,700	\$ 2,302,275,700	72164
		TOTAL ALL BUDGET FUND GROUPS	\$ 4,032,430,800	\$ 4,124,443,600	72165
		ADDITIONAL APPROPRIATIONS			72166
		Appropriation items in this section are to be used for the			72167
		purpose of administering and distributing the designated revenue			72168
		distributions fund according to the Revised Code. If it is			72169
		determined that additional appropriations are necessary, such			72170
		amounts are appropriated.			72171
		Section 93. SAN BOARD OF SANITARIAN REGISTRATION			72172
		General Services Fund Group			72173
4K9	893-609	Operating Expenses	\$ 124,892	\$ 125,612	72174
		TOTAL GSF General Services			72175
		Fund Group	\$ 124,892	\$ 125,612	72176
		TOTAL ALL BUDGET FUND GROUPS	\$ 124,892	\$ 125,612	72177
		Section 94. OSB OHIO STATE SCHOOL FOR THE BLIND			72179
		General Revenue Fund			72180
GRF	226-100	Personal Services	\$ 6,287,483	\$ 6,456,616	72181
GRF	226-200	Maintenance	\$ 685,256	\$ 685,256	72182
GRF	226-300	Equipment	\$ 121,355	\$ 121,355	72183
		TOTAL GRF General Revenue Fund	\$ 7,094,094	\$ 7,263,227	72184

General Services Fund Group				72185
4H8 226-602 Education Reform	\$	61,476	\$ 61,476	72186
Grants				
TOTAL GSF General Services				72187
Fund Group	\$	61,476	\$ 61,476	72188
State Special Revenue Fund Group				72189
4M5 226-601 Work Study &	\$	42,919	\$ 42,919	72190
Technology Investments				
TOTAL SSR State Special Revenue				72191
Fund Group	\$	42,919	\$ 42,919	72192
Federal Special Revenue Fund Group				72193
3P5 226-643 Medicaid Professional	\$	143,600	\$ 143,600	72194
Services Reimbursement				
310 226-626 Coordinating Unit	\$	1,390,000	\$ 1,384,000	72195
TOTAL FED Federal Special				72196
Revenue Fund Group	\$	1,533,600	\$ 1,527,600	72197
TOTAL ALL BUDGET FUND GROUPS	\$	8,732,089	\$ 8,895,222	72198
Section 95. OSD OHIO STATE SCHOOL FOR THE DEAF				72200
General Revenue Fund				72201
GRF 221-100 Personal Services	\$	8,134,597	\$ 8,464,711	72202
GRF 221-200 Maintenance	\$	1,018,160	\$ 1,028,342	72203
GRF 221-300 Equipment	\$	200,841	\$ 200,841	72204
TOTAL GRF General Revenue Fund	\$	9,353,598	\$ 9,693,894	72205
General Services Fund Group				72206
4M1 221-602 Education Reform	\$	70,701	\$ 70,701	72207
Grants				
TOTAL GSF General Services				72208
Fund Group	\$	70,701	\$ 70,701	72209
State Special Revenue Fund Group				72210
4M0 221-601 Educational Program	\$	33,188	\$ 33,188	72211

	Expenses				72212
5H6	221-609	Even Start Fees &	\$	98,500	\$ 98,500 72213
		Gifts			
	TOTAL SSR	State Special Revenue			72214
	Fund Group		\$	131,688	\$ 131,688 72215
	Federal Special Revenue	Fund Group			72216
3R0	221-684	Medicaid Professional	\$	111,377	\$ 111,377 72217
		Services Reimbursement			72218
311	221-625	Coordinating Unit	\$	949,899	\$ 974,649 72219
3Y1	221-686	Early Childhood Grant	\$	248,235	\$ 262,275 72220
	TOTAL FED	Federal Special			72221
	Revenue Fund Group		\$	1,309,511	\$ 1,348,301 72222
	TOTAL ALL BUDGET FUND GROUPS		\$	10,865,498	\$ 11,244,584 72223
	Section 96.	SFC SCHOOL FACILITIES COMMISSION			72225
	General Revenue Fund				72226
GRF	230-428	Lease Rental Payments	\$	31,776,500	\$ 31,704,700 72227
GRF	230-908	Common Schools General	\$	106,322,300	\$ 145,989,300 72228
		Obligation Debt			
		Service			
	TOTAL GRF	General Revenue Fund	\$	138,098,800	\$ 177,694,000 72229
	Federal Special Revenue	Fund Group			72230
3X9	230-601	Federal School	\$	28,214,058	\$ 28,214,058 72231
		Facilities Grant			
	TOTAL FED	Federal Special Revenue	\$	28,214,058	\$ 28,214,058 72232
	Fund Group				
	State Special Revenue	Fund Group			72233
5E3	230-644	Operating Expenses	\$	7,009,766	\$ 7,009,766 72234
	TOTAL SSR	State Special Revenue			72235
	Fund Group		\$	7,009,766	\$ 7,009,766 72236
	TOTAL ALL BUDGET FUND GROUPS		\$	173,322,624	\$ 212,917,824 72237

Section 96.01. LEASE RENTAL PAYMENTS 72239

The foregoing appropriation item 230-428, Lease Rental 72240
Payments, shall be used to meet all payments at the times they are 72241
required to be made during the period from July 1, 2003, to June 72242
30, 2005, by the School Facilities Commission pursuant to leases 72243
and agreements made under section 3318.26 of the Revised Code, but 72244
limited to the aggregate amount of \$63,481,200. Nothing in this 72245
act shall be deemed to contravene the obligation of the state to 72246
pay, without necessity for further appropriation, from the sources 72247
pledged thereto, the bond service charges on obligations issued 72248
pursuant to Chapter 3318. of the Revised Code. 72249

COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE 72250

The foregoing appropriation item 230-908, Common Schools 72251
General Obligation Debt Service, shall be used to pay all debt 72252
service and related financing costs at the times they are required 72253
to be made pursuant to sections 151.01 and 151.03 of the Revised 72254
Code during the period from July 1, 2003, to June 30, 2005. The 72255
Office of the Sinking Fund or the Director of Budget and 72256
Management shall effectuate the required payments by an intrastate 72257
transfer voucher. 72258

OPERATING EXPENSES 72259

The foregoing appropriation item 230-644, Operating Expenses, 72260
shall be used by the Ohio School Facilities Commission to carry 72261
out its responsibilities pursuant to this section and Chapter 72262
3318. of the Revised Code. 72263

Within ten days after the effective date of this section, or 72264
as soon as possible thereafter, the Executive Director of the Ohio 72265
School Facilities Commission shall certify to the Director of 72266
Budget and Management the amount of cash from interest earnings to 72267
be transferred from the School Building Assistance Fund (Fund 032) 72268

or the Public School Building Fund (Fund 021) to the Ohio School 72269
Facilities Commission Fund (Fund 5E3). 72270

By July 10, 2004, the Executive Director of the Ohio School 72271
Facilities Commission shall certify to the Director of Budget and 72272
Management the amount of cash from interest earnings to be 72273
transferred from the School Building Assistance Fund (Fund 032) or 72274
the Public School Building Fund (Fund 021) to the Ohio School 72275
Facilities Commission Fund (Fund 5E3). The amount transferred may 72276
not exceed investment earnings credited to the School Building 72277
Assistance Fund (Fund 032) less any amount required to be paid for 72278
federal arbitrage rebate purposes. 72279

SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION 72280

At the request of the Executive Director of the Ohio School 72281
Facilities Commission, the Director of Budget and Management may 72282
cancel encumbrances for school district projects from a previous 72283
biennium if the district has not raised its local share of project 72284
costs within one year of receiving Controlling Board approval in 72285
accordance with section 3318.05 of the Revised Code. The Executive 72286
Director of the Ohio School Facilities Commission shall certify 72287
the amounts of these canceled encumbrances to the Director of 72288
Budget and Management on a quarterly basis. The amounts of the 72289
canceled encumbrances are appropriated. 72290

Section 96.02. COMMUNITY SCHOOL CLASSROOM FACILITIES LOAN 72291
GUARANTEE 72292

The unencumbered and unallotted balances as of June 30, 2003, 72293
in appropriation item 230-602, Community School Loan Guarantee, 72294
are hereby reappropriated in fiscal year 2004 to support loan 72295
guarantees to community schools under section 3318.50 of the 72296
Revised Code. The unencumbered an unallotted balances of the 72297
appropriation at the end of fiscal year 2004 are hereby 72298
reappropriated in fiscal year 2005 to support loan guarantees to 72299

community schools under section 3318.50 of the Revised Code. 72300

Section 96.03. EXTREME ENVIRONMENTAL CONTAMINATION OF SCHOOL FACILITIES 72301
72302

Notwithstanding any other provisions of law to the contrary, 72303
the School Facilities Commission may provide assistance under the 72304
Exceptional Needs School Facilities Program established in section 72305
3318.37 of the Revised Code to any school district and not 72306
exclusively a school district in the lowest fifty per cent of 72307
adjusted valuation per pupil on the current ranking of school 72308
districts established pursuant to section 3317.02 of the Revised 72309
Code, for the purpose of the relocation or replacement of school 72310
facilities required as a result of extreme environmental 72311
contamination. 72312

The School Facilities Commission shall contract with an 72313
independent environmental consultant to conduct a study and to 72314
report to the commission as to the seriousness of the 72315
environmental contamination, whether the contamination violates 72316
applicable state and federal standards, and whether the facilities 72317
are no longer suitable for use as school facilities. The 72318
commission then shall make a determination regarding funding for 72319
the relocation or replacement of the school facilities. If the 72320
federal government or other public or private entity provides 72321
funds for restitution of costs incurred by the state or school 72322
district in the relocation or replacement of the school 72323
facilities, the school district shall use such funds in excess of 72324
the school district's share to refund the state for the state's 72325
contribution to the environmental contamination portion of the 72326
project. The school district may apply an amount of such 72327
restitution funds up to an amount equal to the school district's 72328
portion of the project, as defined by the commission, toward 72329
paying its portion of that project to reduce the amount of bonds 72330

the school district otherwise must issue to receive state 72331
assistance under sections 3318.01 to 3318.20 of the Revised Code. 72332

Section 96.04. (A) The Ohio School Facilities Commission may 72333
commit up to thirty-five million dollars to the Canton City School 72334
District for construction of a facility described in this section, 72335
in lieu of a high school that would otherwise be authorized under 72336
Chapter 3318. of the Revised Code. The commission shall not commit 72337
funds under this section unless all of the following conditions 72338
are met: 72339

(1) The district has entered into a cooperative agreement 72340
with a state-assisted technical college. 72341

(2) The district has received an irrevocable commitment of 72342
additional funding from nonpublic sources. 72343

(3) The facility is intended to serve both secondary and 72344
postsecondary instructional purposes. 72345

(B) The commission shall enter into an agreement with the 72346
district for the construction of the facility authorized under 72347
this section that is separate from and in addition to the 72348
agreement required for the district's participation in the 72349
Classroom Facilities Assistance Program under section 3318.08 of 72350
the Revised Code. Notwithstanding that section and sections 72351
3318.03, 3318.04, and 3318.083 of the Revised Code, the additional 72352
agreement shall provide, but not be limited to, the following: 72353

(1) The commission shall not have any oversight 72354
responsibilities over the construction of the facility. 72355

(2) The facility need not comply with the specifications for 72356
plans and materials for high schools adopted by the commission. 72357

(3) The commission may decrease the basic project cost that 72358
would otherwise be calculated for a high school under Chapter 72359
3318. of the Revised Code. 72360

(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section. 72361
72362
72363

All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section. 72364
72365
72366

The state funds committed to the facility authorized by this section shall be part of the total amount the state commits to the Canton City School District under Chapter 3318. of the Revised Code. All additional state funds committed to the Canton City School District for classroom facilities assistance shall be subject to all provisions of Chapter 3318. of the Revised Code. 72367
72368
72369
72370
72371
72372

Section 97. NET OHIO SCHOOLNET COMMISSION 72373

General Revenue Fund 72374

GRF 228-404 Operating Expenses	\$	5,961,208	\$	0	72375
--------------------------------	----	-----------	----	---	-------

GRF 228-406 Technical and	\$	7,691,831	\$	0	72376
---------------------------	----	-----------	----	---	-------

Instructional

Professional

Development

GRF 228-539 Education Technology	\$	10,489,315	\$	0	72377
----------------------------------	----	------------	----	---	-------

Total GRF General Revenue Fund	\$	24,142,354	\$	0	72378
--------------------------------	----	------------	----	---	-------

General Services Fund Group 72379

5D4 228-640 Conference/Special	\$	1,350,000	\$	0	72380
--------------------------------	----	-----------	----	---	-------

Purpose Expenses

TOTAL GSF General Services 72381

Fund Group	\$	1,350,000	\$	0	72382
------------	----	-----------	----	---	-------

State Special Revenue Fund Group 72383

4W9 228-630 Ohio SchoolNet	\$	400,000	\$	0	72384
----------------------------	----	---------	----	---	-------

Telecommunity Fund

4X1 228-634 Distance Learning	\$	1,750,000	\$	0	72385
-------------------------------	----	-----------	----	---	-------

5T3 228-605 Gates Foundation	\$	1,194,908	\$	0	72386
Grants					
TOTAL SSR State Special Revenue					72387
Fund Group	\$	3,344,908	\$	0	72388
Federal Special Revenue Fund Group					72389
3X8 228-604 Individuals With	\$	1,500,000	\$	0	72390
Disabilities Education Act					
TOTAL FED Federal Special Revenue					72391
Fund Group	\$	1,500,000	\$	0	72392
TOTAL ALL BUDGET FUND GROUPS	\$	30,337,262	\$	0	72393

Section 97.01. TECHNICAL AND INSTRUCTIONAL PROFESSIONAL DEVELOPMENT 72395
72396

The foregoing appropriation item 228-406, Technical and Instructional Professional Development, shall be used by the Ohio SchoolNet Commission to make grants or provide services to qualifying schools, including the State School for the Blind and the Ohio School for the Deaf, for the provision of hardware, software, telecommunications services, and staff development to support educational uses of technology in the classroom. 72397
72398
72399
72400
72401
72402
72403

The Ohio SchoolNet Commission shall consider the professional development needs associated with the OhioReads Program when making funding allocations and program decisions. 72404
72405
72406

Of the foregoing appropriation \$1,260,000 in fiscal year 2004 shall be used by the Ohio Educational Telecommunications Network Commission, with the advice of the Ohio SchoolNet Commission, to make grants for research, development and production of interactive instructional programming series and teleconferences to support the SchoolNet Commission. Up to \$55,000 of this amount shall be used in fiscal year 2004 to provide for the administration of these activities by the Ohio Educational 72407
72408
72409
72410
72411
72412
72413
72414

Telecommunications Network Commission. The programming shall be 72415
targeted to the needs of the poorest two hundred school districts 72416
as determined by the district's adjusted valuation per pupil as 72417
defined in section 3317.0213 of the Revised Code. 72418

Of the foregoing appropriation item 228-406, Technical and 72419
Instructional Professional Development, \$818,322 in fiscal year 72420
2004 shall be used by the INFOhio Network, with the advice of the 72421
Ohio SchoolNet Commission, to support the provision of electronic 72422
resources to all public schools with preference given to 72423
elementary schools. Consideration shall be given by the Commission 72424
to coordinating the allocation of these moneys with the efforts of 72425
OhioLINK and the Ohio Public Information Network. 72426

Of the foregoing appropriation item 228-406, Technical and 72427
Instructional Professional Development, \$300,000 in fiscal year 72428
2004 shall be used by the JASON project, with the advice of the 72429
Ohio SchoolNet Commission, to provide statewide access and a 75 72430
per cent subsidy for statewide licensing of JASON content for 72431
90,000 middle school students statewide, and professional 72432
development for teachers participating in the program. 72433

The remaining appropriation allocated in appropriation item 72434
228-406, Technical and Instructional Professional Development, 72435
shall be used by the Ohio SchoolNet Commission for professional 72436
development for teachers and administrators for the use of 72437
educational technology. The commission may make grants to provide 72438
technical assistance and professional development on the use of 72439
educational technology to school districts. 72440

Eligible recipients of grants include regional training 72441
centers, county offices of education, data collection sites, 72442
instructional technology centers, institutions of higher 72443
education, public television stations, special education resource 72444
centers, area media centers, or other nonprofit educational 72445
organizations. Services provided through these grants may include 72446

use of private entities subcontracting through the grant 72447
recipient. 72448

Grants shall be made to entities on a contractual basis with 72449
the Ohio SchoolNet Commission. Contracts shall include provisions 72450
that demonstrate how services will benefit technology use in the 72451
schools, and in particular will support Ohio SchoolNet efforts to 72452
support technology in the schools. Contracts shall specify the 72453
scope of assistance being offered and the potential number of 72454
professionals who will be served. Contracting entities may be 72455
awarded more than one grant at a time. 72456

Grants shall be awarded in a manner consistent with the goals 72457
of Ohio SchoolNet. Special emphasis in the award of grants shall 72458
be placed on collaborative efforts among service providers. 72459

Application for grants from this appropriation in 72460
appropriation item 228-406, Technical and Instructional 72461
Professional Development, shall be consistent with a school 72462
district's technology plan that shall meet the minimum 72463
specifications for school district technology plans as prescribed 72464
by the Ohio SchoolNet Commission. Funds allocated through these 72465
grants may be combined with funds received through other state or 72466
federal grants for technology so long as the school district's 72467
technology plan specifies the use of these funds. 72468

EDUCATION TECHNOLOGY 72469

The foregoing appropriation item 228-539, Education 72470
Technology, shall be used to provide funding to suppliers of 72471
information services to school districts for the provision of 72472
hardware, software, and staff development in support of 72473
educational uses of technology in the classroom as prescribed by 72474
the State Plan for Technology pursuant to section 3301.07 of the 72475
Revised Code, and to support assistive technology for children and 72476
youth with disabilities. 72477

Of the foregoing appropriation item 228-539, Education 72478
Technology, up to \$1,946,000 in fiscal year 2004 shall be used by 72479
the Ohio SchoolNet Commission to link all public K-12 classrooms 72480
to each other and the Internet, and to provide access to voice, 72481
video, and data educational resources for students and teachers 72482
through the OneNet Ohio Program. 72483

Of the foregoing appropriation item 228-539, Education 72484
Technology, up to \$2,500,000 in fiscal year 2004 shall be used to 72485
support MathRules, an initiative to provide online courses, 72486
tutorials, and resources for teachers, students, and parents 72487
aligned with Ohio's mathematics content standards. 72488

Of the foregoing appropriation item 228-539, Education 72489
Technology, up to \$1,000,000 in fiscal year 2004 shall be used for 72490
RISE Learning Solutions. It is the intent of the General Assembly 72491
that the SchoolNet Commission, in conjunction with RISE Learning 72492
Solutions, shall develop a program that may be conducted in 72493
conjunction with state-supported technology programs including, 72494
but not limited to, SchoolNet Commission appropriation item 72495
228-406, Technical and Instructional Professional Development, and 72496
appropriation item 228-539, Education Technology, designed to 72497
educate preschool staff members and providers on developmentally 72498
appropriate teaching methods, behavior guidance, and literacy and 72499
to involve parents more closely in the education and development 72500
of their children. The project shall include an interactive 72501
instructional program, delivered using satellite television, 72502
Internet, and with facilitation, which shall be distributed to 72503
program participants using the established satellite receiver 72504
dishes on public schools, Head Start centers, and childcare 72505
centers at up to 100 locations throughout the state. The 72506
interactive instructional program shall be developed to enhance 72507
the professional development, training, and performance of 72508
preschool staff members; the education and care-giving skills of 72509

the parents of preschool children; and the preparation of 72510
preschool-aged children for learning. 72511

The project shall utilize the grant to continue a 72512
direct-service program that shall include at least three 72513
teleconferences that may be distributed by Ohio-based public 72514
television utilizing satellite or microwave technology in a manner 72515
designed to promote interactive communications between the program 72516
participants located at sub-sites within the Ohio Educational 72517
Broadcast Network or as determined by the commission. Program 72518
participants shall communicate with trainers and participants at 72519
other program sites through telecommunications and facsimile and 72520
on-line computer technology. As much as possible, the project 72521
shall utilize systems currently available in state-supported 72522
technology programs and conduct the program in a manner that 72523
promotes innovative, interactive communications between program 72524
participants at all the sites. Parent support groups and teacher 72525
training sessions shall supplement the teleconferences and shall 72526
occur on a local basis. 72527

RISE Learning Solutions may subcontract components of the 72528
project. 72529

Individuals eligible to participate in the program include 72530
those children, their parents, custodians, or guardians, and 72531
preschool staff members who are eligible to participate in a 72532
preschool program as defined in division (A) of section 3301.52 72533
and section 5104.02 of the Revised Code. 72534

The programs, including two to be developed in support of 72535
teacher proficiency in teaching reading to prekindergarten and 72536
kindergarten to third grade students, at the direction of the 72537
Department of Education, may include: two three-hour broadcast 72538
seminars from a central up-link station, distributed in up to 88 72539
counties; high production-value video sought in various locations; 72540
and direct interactive adult learning activities. The program 72541

shall develop program workbooks and involve at least three small 72542
group-facilitated follow-up discussion workshops and development 72543
and distribution of at least two home videos. The program shall 72544
also provide Internet access, interactive lines, bulletin board, 72545
and CD-ROM. 72546

Upon completion of each of the school years for which the 72547
grant was made, RISE Learning Solutions shall issue a report to 72548
the commission and the members of the General Assembly explaining 72549
the goals and objectives determined, the activities implemented, 72550
the progress made toward the achievement of the goals and 72551
objectives, and the outcome of the project. 72552

Up to \$4,403,778 in each fiscal year shall be used by the 72553
Ohio SchoolNet Commission to contract with instructional 72554
television, and \$639,537 in fiscal year 2004 shall be used by the 72555
commission to contract with education media centers to provide 72556
Ohio schools with instructional resources and services. 72557

Resources may include, but not be limited to, the following: 72558
pre-recorded video materials (including videotape, laser discs, 72559
and CD-ROM discs); computer software for student use or student 72560
access to electronic communication, databases, spreadsheet, and 72561
word processing capability; live student courses or courses 72562
delivered electronically; automated media systems; and 72563
instructional and professional development materials for teachers. 72564
The commission shall cooperate with education technology agencies 72565
in the acquisition, development, and delivery of such educational 72566
resources to ensure high-quality and educational soundness at the 72567
lowest possible cost. Delivery of such resources may utilize a 72568
variety of technologies, with preference given to a high-speed 72569
integrated information network that can transport video, voice, 72570
data, and graphics simultaneously. 72571

Services shall include presentations and technical assistance 72572
that will help students and teachers integrate educational 72573

materials that support curriculum objectives, match specific 72574
learning styles, and are appropriate for individual interests and 72575
ability levels. 72576

Such instructional resources and services shall be made 72577
available for purchase by chartered nonpublic schools or by public 72578
school districts for the benefit of pupils attending chartered 72579
nonpublic schools. 72580

TELECOMMUNITY 72581

The foregoing appropriation item 228-630, Ohio SchoolNet 72582
Telecommunity Fund, shall be distributed by the Ohio SchoolNet 72583
Commission on a grant basis to eligible school districts to 72584
establish "distance learning" through interactive video 72585
technologies in the school district. Per agreements with eight 72586
Ohio local telephone companies: ALLTEL Ohio, CENTURY Telephone of 72587
Ohio, Chillicothe Telephone Company, Cincinnati Bell Telephone 72588
Company, Orwell Telephone Company, Sprint North Central Telephone, 72589
VERIZON, and Western Reserve Telephone Company, school districts 72590
are eligible for funds if they are within one of the listed 72591
telephone company service areas. Funds to administer the program 72592
shall be expended by the commission up to the amount specified in 72593
agreements with the listed telephone companies. 72594

Within 30 days after the effective date of this section, the 72595
Director of Budget and Management shall transfer to Fund 4W9 in 72596
the State Special Revenue Fund Group any investment earnings from 72597
moneys paid to the Ohio SchoolNet Commission by any telephone 72598
company as part of any settlement agreement between the listed 72599
companies and the Public Utilities Commission in fiscal years 1996 72600
and beyond. 72601

DISTANCE LEARNING 72602

Appropriation item 228-634, Distance Learning, shall be 72603
distributed by the Ohio SchoolNet Commission on a grant basis to 72604

eligible school districts to establish "distance learning" in the 72605
school district. Per the agreement with Ameritech, school 72606
districts are eligible for funds if they are within an Ameritech 72607
service area. Funds to administer the program shall be expended by 72608
the commission up to the amount specified in the agreement with 72609
Ameritech. 72610

Within thirty days after the effective date of this section, 72611
the Director of Budget and Management shall transfer to fund 4X1 72612
in the State Special Revenue Fund Group any investment earnings 72613
from moneys paid to the office or to the SchoolNet Commission by 72614
any telephone company as part of a settlement agreement between 72615
the company and the Public Utilities Commission in fiscal year 72616
1995. 72617

GATES FOUNDATION GRANTS 72618

The foregoing appropriation item 228-605, Gates Foundation 72619
Grants, shall be used by the Ohio SchoolNet Commission to provide 72620
professional development to school district principals, 72621
superintendents, and other administrative staff for the use of 72622
education technology. The appropriation is made possible through a 72623
grant from the Bill and Melinda Gates foundation. 72624

Section 97.02. TRANSFER OF FUNDS TO THE DEPARTMENT OF 72625
EDUCATION 72626

On and after July 1, 2004, notwithstanding any provision of 72627
law to the contrary, the Director of Budget and Management is 72628
authorized to take the actions described in this section with 72629
respect to budget changes made necessary by administrative 72630
reorganization, program transfers, the creation of new funds, and 72631
the consolidation of funds as authorized by this act. The Director 72632
may make any transfer of cash balances between funds. At the 72633
request of the Director of Budget and Management, the 72634
Superintendent of Public Instruction shall certify to the Director 72635

an estimate of the amount of the cash balance to be transferred to 72636
the receiving fund. The Director may transfer the estimated amount 72637
when needed to make payments. Not more than thirty days after 72638
certifying the estimated amount, the Superintendent of Public 72639
Instruction shall certify the final amount to the Director. The 72640
Director shall transfer the difference between any amount 72641
previously transferred and the certified final amount. The 72642
Director may cancel encumbrances and re-establish encumbrances or 72643
parts of encumbrances as needed in fiscal year 2005 in the 72644
appropriate fund and appropriation line item for the same purpose 72645
and to the same vendor. As determined by the Director, the 72646
appropriation authority necessary to re-establish such 72647
encumbrances in fiscal year 2005 in a different fund or 72648
appropriation line item within an agency or between agencies is 72649
hereby appropriated by the General Assembly. The Director shall 72650
reduce each year's appropriation balances by the amount of the 72651
encumbrance canceled in their respective funds and appropriation 72652
line item. Any fiscal year 2004 unencumbered or unallocated 72653
appropriation balances may be transferred to the appropriate 72654
appropriation line item to be used for the same purposes, as 72655
determined by the Director. Of the foregoing appropriation item 72656
911-416, Educational Technology, up to \$23,000,000 in fiscal year 72657
2005 may be transferred by the Director of Budget and Management 72658
to the Ohio Department of Education based on the Ohio Technology 72659
Integration Task Force plan envisioned by the section of this act 72660
titled OHIO TECHNOLOGY INTEGRATION TASK FORCE. 72661

Section 98. SOS SECRETARY OF STATE 72662

General Revenue Fund 72663

GRF 050-321 Operating Expenses	\$	2,997,227	\$	3,117,116	72664
GRF 050-403 Election Statistics	\$	114,993	\$	119,593	72665
GRF 050-407 Pollworkers Training	\$	307,571	\$	319,874	72666
GRF 050-409 Litigation	\$	5,147	\$	5,352	72667

Expenditures					
TOTAL GRF General Revenue Fund	\$	3,424,938	\$	3,561,935	72668
General Services Fund Group					72669
4S8 050-610 Board of Voting	\$	7,200	\$	7,200	72670
Machine Examiners					
412 050-609 Notary Commission	\$	178,124	\$	185,249	72671
413 050-601 Information Systems	\$	163,418	\$	169,955	72672
414 050-602 Citizen Education Fund	\$	72,800	\$	75,712	72673
TOTAL General Services Fund Group	\$	421,542	\$	438,116	72674
Federal Special Revenue Fund Group					72675
3X4 050-612 Ohio Cntr/Law Related	\$	41,000	\$	41,000	72676
Educ Grant					
TOTAL FED Federal Special Revenue					72677
Fund Group	\$	41,000	\$	41,000	72678
State Special Revenue Fund Group					72679
5N9 050-607 Technology	\$	124,582	\$	129,565	72680
Improvements					
599 050-603 Business Services	\$	13,649,716	\$	13,850,153	72681
Operating Expenses					
TOTAL SSR State Special Revenue					72682
Fund Group	\$	13,774,298	\$	13,979,718	72683
Holding Account Redistribution Fund Group					72684
R01 050-605 Uniform Commercial	\$	65,000	\$	65,000	72685
Code Refunds					
R02 050-606 Corporate/Business	\$	100,000	\$	100,000	72686
Filing Refunds					
TOTAL 090 Holding Account					72687
Redistribution Fund Group	\$	165,000	\$	165,000	72688
TOTAL ALL BUDGET FUND GROUPS	\$	17,826,778	\$	18,185,769	72689
BOARD OF VOTING MACHINE EXAMINERS					72690
The foregoing appropriation item 050-610, Board of Voting					72691

Machine Examiners, shall be used to pay for the services and 72692
expenses of the members of the Board of Voting Machine Examiners, 72693
and for other expenses that are authorized to be paid from the 72694
Board of Voting Machine Examiners Fund, which is created in 72695
section 3506.05 of the Revised Code. Moneys not used shall be 72696
returned to the person or entity submitting the equipment for 72697
examination. If it is determined that additional appropriations 72698
are necessary, such amounts are appropriated. 72699

HOLDING ACCOUNT REDISTRIBUTION GROUP 72700

The foregoing appropriation items 050-605 and 050-606, 72701
Holding Account Redistribution Fund Group, shall be used to hold 72702
revenues until they are directed to the appropriate accounts or 72703
until they are refunded. If it is determined that additional 72704
appropriations are necessary, such amounts are appropriated. 72705

Section 99. SEN THE OHIO SENATE 72706

General Revenue Fund 72707

GRF 020-321 Operating Expenses \$ 10,887,655 \$ 11,432,037 72708

TOTAL GRF General Revenue Fund \$ 10,887,655 \$ 11,432,037 72709

General Services Fund Group 72710

102 020-602 Senate Reimbursement \$ 422,881 \$ 444,025 72711

409 020-601 Miscellaneous Sales \$ 32,529 \$ 34,155 72712

TOTAL GSF General Services 72713

Fund Group \$ 455,410 \$ 478,180 72714

TOTAL ALL BUDGET FUND GROUPS \$ 11,343,065 \$ 11,910,217 72715

Section 100. CSF COMMISSIONERS OF THE SINKING FUND 72717

Debt Service Fund Group 72718

071 155-901 Highway Obligations \$ 35,536,300 \$ 10,450,000 72719

Bond Retirement Fund

072 155-902 Highway Capital \$ 153,559,600 \$ 173,238,200 72720

Improvements Bond

		Retirement Fund					
073	155-903	Natural Resources Bond	\$	23,808,300	\$	26,914,300	72721
		Retirement					
074	155-904	Conservation Projects	\$	9,743,500	\$	11,235,700	72722
		Bond Service Fund					
076	155-906	Coal Research and	\$	7,231,200	\$	9,185,100	72723
		Development Bond					
		Retirement Fund					
077	155-907	State Capital	\$	156,974,400	\$	152,069,700	72724
		Improvements Bond					
		Retirement Fund					
078	155-908	Common Schools Bond	\$	106,322,300	\$	145,989,300	72725
		Retirement Fund					
079	155-909	Higher Education Bond	\$	97,668,000	\$	130,967,600	72726
		Retirement Fund					
TOTAL DSF		Debt Service Fund Group	\$	590,843,600	\$	660,049,900	72727
TOTAL ALL BUDGET FUND GROUPS			\$	590,843,600	\$	660,049,900	72728
		ADDITIONAL APPROPRIATIONS					72729
		Appropriation items in this section are for the purpose of					72730
		paying debt service and financing costs on bonds or notes of the					72731
		state issued pursuant to the Ohio Constitution and acts of the					72732
		General Assembly. If it is determined that additional					72733
		appropriations are necessary, such amounts are appropriated.					72734
		Section 101. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY &					72735
		AUDIOLOGY					72736
		General Services Fund Group					72737
4K9	886-609	Operating Expenses	\$	390,966	\$	403,554	72738
TOTAL GSF		General Services					72739
Fund Group			\$	390,966	\$	403,554	72740
TOTAL ALL BUDGET FUND GROUPS			\$	390,966	\$	403,554	72741

Section 102. BTA BOARD OF TAX APPEALS				72743
General Revenue Fund				72744
GRF 116-321	Operating Expenses	\$ 2,245,501	\$ 2,362,383	72745
TOTAL GRF General Revenue Fund				72746
TOTAL ALL BUDGET FUND GROUPS				72747
 Section 103. TAX DEPARTMENT OF TAXATION				72749
General Revenue Fund				72750
GRF 110-321	Operating Expenses	\$ 92,501,007	\$ 94,267,788	72751
GRF 110-412	Child Support	\$ 74,215	\$ 74,215	72752
Administration				
GRF 110-901	Property Tax	\$ 408,750,000	\$ 409,440,000	72753
Allocation - Taxation				
GRF 110-906	Tangible Tax Exemption	\$ 26,590,000	\$ 25,090,000	72754
- Taxation				
TOTAL GRF General Revenue Fund				72755
Agency Fund Group				72756
095 110-901	Municipal Income Tax	\$ 12,000,000	\$ 12,000,000	72757
425 110-635	Tax Refunds	\$ 1,296,756,200	\$ 1,337,119,600	72758
TOTAL AGY Agency Fund Group				72759
General Services Fund Group				72760
433 110-602	Tape File Account	\$ 96,165	\$ 96,165	72761
TOTAL GSF General Services				72762
Fund Group				72763
State Special Revenue Fund Group				72764
4C6 110-616	International	\$ 706,855	\$ 706,855	72765
Registration Plan				
4R6 110-610	Tire Tax	\$ 65,000	\$ 65,000	72766
Administration				
435 110-607	Local Tax	\$ 13,600,000	\$ 13,700,000	72767
Administration				

436	110-608	Motor Vehicle Audit	\$	1,350,000	\$	1,350,000	72768
437	110-606	Litter Tax and Natural Resource Tax Administration	\$	625,232	\$	625,232	72769
438	110-609	School District Income Tax	\$	2,599,999	\$	2,599,999	72770
5N5	110-605	Municipal Income Tax Administration	\$	650,000	\$	650,000	72771
5N6	110-618	Kilowatt Hour Tax Administration	\$	85,000	\$	85,000	72772
5V7	110-622	Motor Fuel Tax Administration	\$	3,734,036	\$	3,833,091	72773
5V8	110-623	Property Tax Administration	\$	11,569,719	\$	11,938,362	72774
5W4	110-625	Centralized Tax Filing and Payment	\$	3,000,000	\$	3,000,000	72775
639	110-614	Cigarette Tax Enforcement	\$	168,925	\$	168,925	72776
642	110-613	Ohio Political Party Distributions	\$	600,000	\$	600,000	72777
688	110-615	Local Excise Tax Administration	\$	300,000	\$	300,000	72778
TOTAL SSR State Special Revenue							72779
Fund Group			\$	39,054,766	\$	39,622,464	72780
Federal Special Revenue Fund Group							72781
3J6	110-601	Motor Fuel Compliance	\$	33,300	\$	25,000	72782
TOTAL FED Federal Special Revenue							72783
Fund Group			\$	33,300	\$	25,000	72784
Holding Account Redistribution Fund Group							72785
R10	110-611	Tax Distributions	\$	50,000	\$	50,000	72786
R11	110-612	Miscellaneous Income Tax Receipts	\$	50,000	\$	50,000	72787

TOTAL 090 Holding Account				72788	
Redistribution Fund Group	\$	100,000	\$	100,000	72789
TOTAL ALL BUDGET FUND GROUPS	\$	1,875,955,653	\$	1,917,835,232	72790

LITTER CONTROL TAX ADMINISTRATION FUND 72791

Notwithstanding section 5733.12 of the Revised Code, during 72792
the period from July 1, 2003, to June 30, 2004, the amount of 72793
\$625,232, and during the period from July 1, 2004, to June 30, 72794
2005, the amount of \$625,232, received by the Tax Commissioner 72795
under Chapter 5733. of the Revised Code, shall be credited to the 72796
Litter Control Tax Administration Fund (Fund 437). 72797

CENTRALIZED TAX FILING AND PAYMENT FUND 72798

The Director of Budget and Management pursuant to a plan 72799
submitted by the Tax Commissioner, or as otherwise determined by 72800
the Director of Budget and Management, shall set a schedule to 72801
transfer cash from the General Revenue Fund to the credit of the 72802
Centralized Tax Filing and Payment Fund. Such transfers of cash 72803
shall not exceed \$3,000,000 in any fiscal year. 72804

INTERNATIONAL REGISTRATION PLAN AUDIT 72805

The foregoing appropriation item 110-616, International 72806
Registration Plan, shall be used pursuant to section 5703.12 of 72807
the Revised Code for audits of persons with vehicles registered 72808
under the International Registration Plan. 72809

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX 72810
EXEMPTION 72811

The foregoing appropriation item 110-901, Property Tax 72812
Allocation - Taxation, is appropriated to pay for the state's 72813
costs incurred due to the Homestead Exemption, the Manufactured 72814
Home Property Tax Rollback, and the Property Tax Rollback. The Tax 72815
Commissioner shall distribute these funds directly to the 72816
appropriate local taxing districts of the state, except for school 72817

districts, notwithstanding the provisions in sections 321.24 and 72818
323.156 of the Revised Code, which provide for payment of the 72819
Homestead Exemption, the Manufactured Home Property Tax Rollback, 72820
and Property Tax Rollback by the Tax Commissioner to the 72821
appropriate county treasurer and the subsequent redistribution of 72822
these funds to the appropriate local taxing districts by the 72823
county auditor. 72824

The foregoing appropriation item 110-906, Tangible Tax 72825
Exemption - Taxation, is appropriated to pay for the state's costs 72826
incurred due to the tangible personal property tax exemption 72827
required by division (C)(3) of section 5709.01 of the Revised 72828
Code. The Tax Commissioner shall distribute to each county 72829
treasurer the total amount certified by the county treasurer 72830
pursuant to section 319.311 of the Revised Code for all local 72831
taxing districts located in the county except for school 72832
districts, notwithstanding the provision in section 319.311 of the 72833
Revised Code which provides for payment of the \$10,000 tangible 72834
personal property tax exemption by the Tax Commissioner to the 72835
appropriate county treasurer for all local taxing districts 72836
located in the county including school districts. Pursuant to 72837
division (G) of section 321.24 of the Revised Code, the county 72838
auditor shall distribute the amount paid by the Tax Commissioner 72839
among the appropriate local taxing districts except for school 72840
districts. 72841

Upon receipt of these amounts, each local taxing district 72842
shall distribute the amount among the proper funds as if it had 72843
been paid as real or tangible personal property taxes. Payments 72844
for the costs of administration shall continue to be paid to the 72845
county treasurer and county auditor as provided for in sections 72846
319.54, 321.26, and 323.156 of the Revised Code. 72847

Any sums, in addition to the amounts specifically 72848
appropriated in appropriation items 110-901, Property Tax 72849

Allocation - Taxation, for the Homestead Exemption, the 72850
 Manufactured Home Property Tax Rollback, and the Property Tax 72851
 Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, 72852
 for the \$10,000 tangible personal property tax exemption payments, 72853
 which are determined to be necessary for these purposes, are 72854
 hereby appropriated. 72855

MUNICIPAL INCOME TAX 72856

The foregoing appropriation item 110-901, Municipal Income 72857
 Tax, shall be used to make payments to municipal corporations as 72858
 provided in section 5745.05 of the Revised Code. If it is 72859
 determined that additional appropriations are necessary to make 72860
 such payments, such amounts are hereby appropriated. 72861

TAX REFUNDS 72862

The foregoing appropriation item 110-635, Tax Refunds, shall 72863
 be used to pay refunds as provided in section 5703.052 of the 72864
 Revised Code. If it is determined that additional appropriations 72865
 are necessary, such amounts are appropriated. 72866

Section 104. DOT DEPARTMENT OF TRANSPORTATION 72867

Transportation Modes 72868

General Revenue Fund 72869

GRF 775-451 Public Transportation \$ 21,905,494 \$ 21,905,494 72870
 - State

GRF 776-465 Rail Transportation \$ 3,856,889 \$ 3,786,056 72871

GRF 776-466 Railroad Crossing and \$ 814,278 \$ 832,492 72872
 Grade Separation

GRF 777-471 Airport Improvements - \$ 1,908,495 \$ 1,908,495 72873
 State

GRF 777-473 Rickenbacker Lease \$ 591,600 \$ 591,500 72874
 Payments - State

TOTAL GRF General Revenue Fund \$ 29,076,756 \$ 29,024,037 72875

Federal Special Revenue Fund Group				72876
3B9 776-662 Rail Transportation -	\$	50,000	\$ 50,000	72877
Federal				
TOTAL FSR Federal Special Revenue				72878
Fund Group	\$	50,000	\$ 50,000	72879
State Special Revenue Fund Group				72880
4N4 776-663 Panhandle Lease	\$	770,000	\$ 770,000	72881
Reserve Payments				
4N4 776-664 Rail Transportation -	\$	1,919,500	\$ 2,111,500	72882
Other				
TOTAL SSR State Special Revenue				72883
Fund Group	\$	2,689,500	\$ 2,881,500	72884
TOTAL ALL BUDGET FUND GROUPS	\$	31,816,256	\$ 31,955,537	72885
ELDERLY AND DISABLED FARE ASSISTANCE				72886
Of the foregoing appropriation item 775-451, Public				72887
Transportation - State, up to \$4,012,780 in fiscal year 2004 and				72888
\$5,015,975 in fiscal year 2005 may be used to make grants to				72889
county transit boards, regional transit authorities, regional				72890
transit commissions, counties, municipal corporations, and private				72891
nonprofit organizations that operate or will operate public				72892
transportation systems, for the purpose of reducing the transit				72893
fares of elderly or disabled persons. Pursuant to division (B) of				72894
section 5501.07 of the Revised Code, the Director of				72895
Transportation shall establish criteria for the distribution of				72896
these grants.				72897
RAILROAD CROSSING AND GRADE SEPARATION				72898
The foregoing appropriation item 776-466, Railroad Crossing				72899
and Grade Separation, shall be used to fund the Rail Crossing				72900
Safety Initiative, which provides improvements to communities most				72901
affected by rail traffic and related issues.				72902
AVIATION LEASE PAYMENTS				72903

The foregoing appropriation item 777-473, Rickenbacker Lease Payments - State, shall be used to meet scheduled payments for the Rickenbacker Port Authority. The Director of Transportation shall certify to the Director of Budget and Management any appropriations in appropriation item 777-473, Rickenbacker Lease Payments - State, that are not needed to make lease payments for the Rickenbacker Port Authority. Notwithstanding section 127.14 of the Revised Code, the amount certified may be transferred by the Director of Budget and Management to appropriation item 777-471, Airport Improvements - State.

Section 105. TOS TREASURER OF STATE				72914
General Revenue Fund				72915
GRF 090-321	Operating Expenses	\$ 9,552,821	\$ 10,151,620	72916
GRF 090-401	Office of the Sinking Fund	\$ 554,868	\$ 577,082	72917
GRF 090-402	Continuing Education	\$ 503,648	\$ 536,936	72919
GRF 090-524	Police and Fire Disability Pension Fund	\$ 35,000	\$ 30,000	72920
GRF 090-534	Police & Fire Ad Hoc Cost of Living	\$ 225,000	\$ 230,000	72922
GRF 090-544	Police and Fire State Contribution	\$ 1,200,000	\$ 1,200,000	72924
GRF 090-554	Police and Fire Survivor Benefits	\$ 1,320,000	\$ 1,260,000	72926
GRF 090-575	Police and Fire Death Benefits	\$ 24,000,000	\$ 25,000,000	72928
TOTAL GRF General Revenue Fund				72930
Agency Fund Group				72931

425 090-635 Tax Refunds	\$	31,000,000	\$	31,000,000	72932
TOTAL Agency Fund Group	\$	31,000,000	\$	31,000,000	72933
General Services Fund Group					72934
4E9 090-603 Securities Lending	\$	2,400,000	\$	2,100,000	72935
Income					
577 090-605 Investment Pool	\$	600,000	\$	550,000	72936
Reimbursement					72937
605 090-609 Treasurer of State	\$	600,000	\$	700,000	72938
Administrative Fund					72939
TOTAL GSF General Services					72940
Fund Group	\$	3,600,000	\$	3,350,000	72941
State Special Revenue Fund Group					72942
5C5 090-602 County Treasurer	\$	175,000	\$	135,000	72943
Education					
TOTAL SSR State Special Revenue					72944
Fund Group	\$	175,000	\$	135,000	72945
TOTAL ALL BUDGET FUND GROUPS	\$	72,166,337	\$	73,470,638	72946

Section 105.01. OFFICE OF THE SINKING FUND 72948

The foregoing appropriation item 090-401, Office of the 72949
Sinking Fund, shall be used for financing and other costs incurred 72950
by or on behalf of the Commissioners of the Sinking Fund, the Ohio 72951
Public Facilities Commission or its secretary, or the Treasurer of 72952
State, with respect to State of Ohio general obligation bonds or 72953
notes, including, but not limited to, printing, advertising, 72954
delivery, rating fees and the procurement of ratings, professional 72955
publications, membership in professional organizations, and 72956
services referred to in division (D) of section 151.01 of the 72957
Revised Code. The General Revenue Fund shall be reimbursed for 72958
such costs by intrastate transfer voucher pursuant to a 72959
certification by the Office of the Sinking Fund of the actual 72960
amounts used. The amounts necessary to make such reimbursements 72961

are appropriated from the general obligation bond retirement funds 72962
created by the Constitution and laws to the extent such costs are 72963
incurred. 72964

POLICE AND FIRE DEATH BENEFIT FUND 72965

The foregoing appropriation item 090-575, Police and Fire 72966
Death Benefits, shall be disbursed annually by the Treasurer of 72967
State at the beginning of each fiscal year to the Board of 72968
Trustees of the Ohio Police and Fire Pension Fund. By the 72969
twentieth day of June of each year, the Board of Trustees of the 72970
Ohio Police and Fire Pension Fund shall certify to the Treasurer 72971
of State the amount disbursed in the current fiscal year to make 72972
the payments required by section 742.63 of the Revised Code and 72973
shall return to the Treasurer of State moneys received from this 72974
item but not disbursed. 72975

The foregoing appropriation item 090-635, Tax Refunds, shall 72976
be used to pay refunds as provided in section 5703.052 of the 72977
Revised Code. If it is determined by the Director of Budget and 72978
Management that additional amounts are necessary, such amounts are 72979
appropriated. 72980

Section 106. UST PETROLEUM UNDERGROUND STORAGE TANK RELEASE 72981
COMPENSATION BOARD 72982

State Special Revenue Fund Group				72983	
691 810-632 PUSTRCB Staff	\$	1,075,158	\$	1,075,158	72984
TOTAL SSR State Special Revenue					72985
Fund Group	\$	1,075,158	\$	1,075,158	72986
TOTAL ALL BUDGET FUND GROUPS	\$	1,075,158	\$	1,075,158	72987

Section 107. TTA OHIO TUITION TRUST AUTHORITY 72989

State Special Revenue Fund Group				72990	
5P3 095-602 Variable Savings Plan	\$	1,639,747	\$	1,690,213	72991
645 095-601 Operating Expenses	\$	3,570,614	\$	3,689,101	72992

TOTAL SSR State Special Revenue				72993
Fund Group	\$	5,210,361	\$ 5,379,314	72994
TOTAL ALL BUDGET FUND GROUPS	\$	5,210,361	\$ 5,379,314	72995

Section 108. OVH OHIO VETERANS' HOME 72997

General Revenue Fund				72998
GRF 430-100 Personal Services	\$	20,664,311	\$ 18,247,112	72999
GRF 430-200 Maintenance	\$	6,112,553	\$ 6,546,928	73000
TOTAL GRF General Revenue Fund	\$	26,776,864	\$ 24,794,040	73001
General Services Fund Group				73002
484 430-603 Rental and Service Revenue	\$	709,737	\$ 709,737	73003
TOTAL GSF General Services Fund Group	\$	709,737	\$ 709,737	73004

Federal Special Revenue Fund Group				73005
3L2 430-601 Federal Grants	\$	12,220,340	\$ 14,696,578	73006
TOTAL FED Federal Special Revenue Fund Group	\$	12,220,340	\$ 14,696,578	73008

State Special Revenue Fund Group				73009
4E2 430-602 Veterans Home Operating	\$	6,719,938	\$ 7,769,277	73010
604 430-604 Veterans Home Improvement	\$	770,096	\$ 770,096	73011

TOTAL SSR State Special Revenue				73012
Fund Group	\$	7,490,034	\$ 8,539,373	73013
TOTAL ALL BUDGET FUND GROUPS	\$	47,196,975	\$ 48,739,728	73014

Section 109. VET VETERANS' ORGANIZATIONS 73016

General Revenue Fund				73017
VAP AMERICAN EX-PRISONERS OF WAR				73018
GRF 743-501 State Support	\$	24,404	\$ 24,404	73019
VAN ARMY AND NAVY UNION, USA, INC.				73020

GRF 746-501	State Support	\$	53,637	\$	53,637	73021
	VKW KOREAN WAR VETERANS					73022
GRF 747-501	State Support	\$	53,092	\$	48,217	73023
	VJW JEWISH WAR VETERANS					73024
GRF 748-501	State Support	\$	28,972	\$	28,972	73025
	VCW CATHOLIC WAR VETERANS					73026
GRF 749-501	State Support	\$	56,540	\$	56,540	73027
	VPH MILITARY ORDER OF THE PURPLE HEART					73028
GRF 750-501	State Support	\$	54,968	\$	54,968	73029
	VVV VIETNAM VETERANS OF AMERICA					73030
GRF 751-501	State Support	\$	181,305	\$	181,305	73031
	VAL AMERICAN LEGION OF OHIO					73032
GRF 752-501	State Support	\$	246,020	\$	246,020	73033
	VII AMVETS					73034
GRF 753-501	State Support	\$	231,971	\$	231,971	73035
	VAV DISABLED AMERICAN VETERANS					73036
GRF 754-501	State Support	\$	162,150	\$	162,150	73037
	VMC MARINE CORPS LEAGUE					73038
GRF 756-501	State Support	\$	83,823	\$	83,823	73039
	V37 37TH DIVISION AEF VETERANS' ASSOCIATION					73040
GRF 757-501	State Support	\$	5,797	\$	5,797	73041
	VFW VETERANS OF FOREIGN WARS					73042
GRF 758-501	State Support	\$	191,700	\$	191,700	73043
	VWI VETERANS OF WORLD WAR I					73044
GRF 759-501	State Support	\$	20,536	\$	20,536	73045
TOTAL GRF General Revenue Fund		\$	1,394,915	\$	1,390,040	73046
TOTAL ALL BUDGET FUND GROUPS		\$	1,394,915	\$	1,390,040	73047

RELEASE OF FUNDS 73048

The foregoing appropriation items 743-501, 746-501, 747-501, 73049
748-501, 749-501, 750-501, 751-501, 752-501, 753-501, 754-501, 73050
756-501, 757-501, 758-501, and 759-501, State Support, shall be 73051
released upon approval by the Director of Budget and Management. 73052

50th ANNIVERSARY COMMEMORATION OF THE KOREAN WAR 73053

Of the foregoing appropriation item 747-501, State Support, 73054
Korean War Veterans, up to \$4,500 in fiscal year 2004 shall be 73055
used for activities to commemorate the 50th anniversary of the 73056
Korean War. Commemorative activities shall be carried out by the 73057
Korean War Veterans Organization with input from the Governor's 73058
Office of Veterans Affairs and the other veterans organizations 73059
representing Korean War veterans. 73060

AMERICAN EX-PRISONERS OF WAR 73061

The American Ex-Prisoners of War shall be permitted to share 73062
an office with the Veterans of World War I. 73063

CENTRAL OHIO UNITED SERVICES ORGANIZATION 73064

Of the foregoing appropriation item 751-501, State Support, 73065
Vietnam Veterans of America, \$50,000 in each fiscal year shall be 73066
used to support the activities of the Central Ohio USO. 73067

VETERANS SERVICE COMMISSION EDUCATION 73068

Of the foregoing appropriation item 753-501, State Support, 73069
AMVETS, up to \$20,000 in each fiscal year may be used to provide 73070
moneys to the Association of County Veterans Service Commissioners 73071
to reimburse its member county veterans service commissions for 73072
costs incurred in carrying out educational and outreach duties 73073
required under divisions (E) and (F) of section 5901.03 of the 73074
Revised Code. The Director of Budget and Management shall release 73075
these funds upon the presentation of an itemized receipt from the 73076
association for reasonable and appropriate expenses incurred while 73077
performing these duties. The association shall establish uniform 73078
procedures for reimbursing member commissions. 73079

Section 110. DVM STATE VETERINARY MEDICAL BOARD 73080

General Services Fund Group 73081

4K9 888-609 Operating Expenses	\$	444,208	\$	453,043	73082
TOTAL GSF General Services					73083
Fund Group	\$	444,208	\$	453,043	73084
TOTAL ALL BUDGET FUND GROUPS	\$	444,208	\$	453,043	73085
 Section 111. DYS DEPARTMENT OF YOUTH SERVICES					73087
General Revenue Fund					73088
GRF 470-401 RECLAIM Ohio	\$	164,637,416	\$	167,697,792	73089
GRF 470-412 Lease Rental Payments	\$	21,110,100	\$	21,110,000	73090
GRF 470-510 Youth Services	\$	18,558,587	\$	18,558,587	73091
GRF 472-321 Parole Operations	\$	15,347,154	\$	14,841,872	73092
GRF 477-321 Administrative Operations	\$	14,427,323	\$	14,166,008	73093
TOTAL GRF General Revenue Fund	\$	234,080,580	\$	236,374,259	73094
General Services Fund Group					73095
175 470-613 Education Reimbursement	\$	8,817,598	\$	8,817,598	73096
4A2 470-602 Child Support	\$	311,302	\$	320,641	73097
4G6 470-605 General Operational Funds	\$	10,000	\$	10,000	73098
479 470-609 Employee Food Service	\$	118,454	\$	122,008	73099
523 470-621 Wellness Program	\$	197,778	\$	197,778	73100
TOTAL GSF General Services					73101
Fund Group	\$	9,455,132	\$	9,468,025	73102
Federal Special Revenue Fund Group					73103
3V5 470-604 Juvenile Justice/Delinquency Prevention	\$	4,091,100	\$	4,254,744	73104
3W0 470-611 Federal Juvenile Programs FFY 02	\$	4,500,000	\$	0	73105
3Z8 470-625 Federal Juvenile Programs FFY 04	\$	7,828,899	\$	4,500,000	73106

3Z9	470-626	Federal Juvenile Programs FFY 05	\$	0	\$	7,828,899	73107
321	470-601	Education	\$	1,491,587	\$	1,555,147	73108
321	470-603	Juvenile Justice Prevention	\$	1,558,138	\$	1,558,138	73109
321	470-606	Nutrition	\$	2,389,587	\$	2,485,170	73110
321	470-610	Rehabilitation Programs	\$	585,000	\$	585,000	73111
321	470-614	Title IV-E Reimbursements	\$	4,776,002	\$	4,919,282	73112
321	470-617	Americorps Programs	\$	460,000	\$	460,000	73113
TOTAL FED Federal Special Revenue							73114
Fund Group			\$	27,680,313	\$	28,146,380	73115
State Special Revenue Fund Group							73116
147	470-612	Vocational Education	\$	2,523,653	\$	2,630,612	73117
4W3	470-618	Help Me Grow	\$	11,587	\$	11,587	73118
5J7	470-623	Residential Treatment Services	\$	500,000	\$	500,000	73119
TOTAL SSR State Special Revenue							73120
Fund Group			\$	3,035,240	\$	3,142,199	73121
TOTAL ALL BUDGET FUND GROUPS			\$	274,251,265	\$	277,130,863	73122
OHIO BUILDING AUTHORITY LEASE PAYMENTS							73123
The foregoing appropriation item 470-412, Lease Rental							73124
Payments, in the Department of Youth Services, shall be used for							73125
payments to the Ohio Building Authority for the period from July							73126
1, 2003, to June 30, 2005, pursuant to the primary leases and							73127
agreements for facilities made under Chapter 152. of the Revised							73128
Code, but limited to the aggregate amount of \$42,220,100. This							73129
appropriation is the source of funds pledged for bond service							73130
charges on related obligations issued pursuant to Chapter 152. of							73131
the Revised Code.							73132
EMPLOYEE FOOD SERVICE AND EQUIPMENT							73133

Notwithstanding section 125.14 of the Revised Code, the 73134
foregoing appropriation item 470-609, Employee Food Service, may 73135
be used to purchase any food operational items with funds received 73136
into the fund from reimbursement for state surplus property. 73137

EDUCATION REIMBURSEMENT 73138

The foregoing appropriation item 470-613, Education 73139
Reimbursement, shall be used to fund the operating expenses of 73140
providing educational services to youth supervised by the 73141
Department of Youth Services. Operating expenses include, but are 73142
not limited to, teachers' salaries, maintenance costs, and 73143
educational equipment. This appropriation item shall not be used 73144
for capital expenses. 73145

FEDERAL JUVENILE JUSTICE PROGRAM TRANSFER FROM THE OFFICE OF 73146
CRIMINAL JUSTICE SERVICES TO THE DEPARTMENT OF YOUTH SERVICES 73147

Any business relating to the funds associated with the Office 73148
of Criminal Justice Services' appropriation item 196-602, Criminal 73149
Justice Federal Programs, commenced but not completed by the 73150
Office of Criminal Justice Services or its director shall be 73151
completed by the Department of Youth Services or its director in 73152
the same manner, and with the same effect, as if completed by the 73153
Office of Criminal Justice Services or its director. No 73154
validation, cure, right, privilege, remedy, obligation, or 73155
liability is lost or impaired by reason of the transfer and shall 73156
be administered by the Department of Youth Services. 73157

Any action or proceeding against the Office of Criminal 73158
Justice Services pending on the effective date of this section 73159
shall not be affected by the transfer of responsibility to the 73160
Department of Youth Services, and shall be prosecuted or defended 73161
in the name of the Department of Youth Services or its director. 73162
In all such actions and proceedings, the Department of Youth 73163
Services or its director upon application of the court shall be 73164

substituted as party. 73165

Section 112. EXPENDITURES AND APPROPRIATION INCREASES 73166

APPROVED BY THE CONTROLLING BOARD 73167

Any money that the Controlling Board approves for expenditure 73168
or any increase in appropriation authority that the Controlling 73169
Board approves pursuant to the provisions of sections 127.14, 73170
131.35, and 131.39 of the Revised Code or any other provision of 73171
law is appropriated for the period ending June 30, 2005. 73172

Section 113. PERSONAL SERVICE EXPENSES 73173

Unless otherwise prohibited by law, any appropriation from 73174
which personal service expenses are paid shall bear the employer's 73175
share of public employees' retirement, workers' compensation, 73176
disabled workers' relief, and all group insurance programs; the 73177
costs of centralized accounting, centralized payroll processing, 73178
and related personnel reports and services; the cost of the Office 73179
of Collective Bargaining; the cost of the Personnel Board of 73180
Review; the cost of the Employee Assistance Program; the cost of 73181
the affirmative action and equal employment opportunity programs 73182
administered by the Department of Administrative Services; the 73183
costs of interagency information management infrastructure; and 73184
the cost of administering the state employee merit system as 73185
required by section 124.07 of the Revised Code. These costs shall 73186
be determined in conformity with appropriate sections of law and 73187
paid in accordance with procedures specified by the Office of 73188
Budget and Management. Expenditures from appropriation item 73189
070-601, Public Audit Expense - Local Government, in Fund 422 may 73190
be exempted from the requirements of this section. 73191

Section 114. REISSUANCE OF VOIDED WARRANTS 73192

In order to provide funds for the reissuance of voided 73193

warrants pursuant to section 117.47 of the Revised Code, there is 73194
appropriated, out of moneys in the state treasury from the fund 73195
credited as provided in section 117.47 of the Revised Code, that 73196
amount sufficient to pay such warrants when approved by the Office 73197
of Budget and Management. 73198

Section 115. * CAPITAL PROJECT SETTLEMENTS 73199

This section specifies an additional and supplemental 73200
procedure to provide for payments of judgments and settlements if 73201
the Director of Budget and Management determines, pursuant to 73202
division (C)(4) of section 2743.19 of the Revised Code, that 73203
sufficient unencumbered moneys do not exist in the particular 73204
appropriation to pay the amount of a final judgment rendered 73205
against the state or a state agency, including the settlement of a 73206
claim approved by a court, in an action upon and arising out of a 73207
contractual obligation for the construction or improvement of a 73208
capital facility if the costs under the contract were payable in 73209
whole or in part from a state capital projects appropriation. In 73210
such a case, the director may either proceed pursuant to division 73211
(C)(4) of section 2743.19 of the Revised Code, or apply to the 73212
Controlling Board to increase an appropriation or create an 73213
appropriation out of any unencumbered moneys in the state treasury 73214
to the credit of the capital projects fund from which the initial 73215
state appropriation was made. The Controlling Board may approve or 73216
disapprove the application as submitted or modified. The amount of 73217
an increase in appropriation or new appropriation specified in an 73218
application approved by the Controlling Board is hereby 73219
appropriated from the applicable capital projects fund and made 73220
available for the payment of the judgment or settlement. 73221

If the director does not make the application authorized by 73222
this section or the Controlling Board disapproves the application, 73223
and the director does not make application pursuant to division 73224

(C)(4) of section 2743.19 of the Revised Code, the director shall 73225
for the purpose of making that payment make a request to the 73226
General Assembly as provided for in division (C)(5) of that 73227
section. 73228

Section 116. INCOME TAX DISTRIBUTION TO COUNTIES 73229

There are hereby appropriated out of any moneys in the state 73230
treasury to the credit of the General Revenue Fund, which are not 73231
otherwise appropriated, funds sufficient to make any payment 73232
required by division (B)(2) of section 5747.03 of the Revised 73233
Code. 73234

Section 117. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 73235
AGAINST THE STATE 73236

Any appropriation may be used for the purpose of satisfying 73237
judgments or settlements in connection with civil actions against 73238
the state in federal court not barred by sovereign immunity or the 73239
Eleventh Amendment to the Constitution of the United States, or 73240
for the purpose of satisfying judgments, settlements, or 73241
administrative awards ordered or approved by the Court of Claims 73242
in connection with civil actions against the state, pursuant to 73243
section 2743.15, 2743.19, or 2743.191 of the Revised Code. This 73244
authorization does not apply to appropriations to be applied to or 73245
used for payment of guarantees by or on behalf of the state, for 73246
or relating to lease payments or debt service on bonds, notes, or 73247
similar obligations and those from the Sports Facilities Building 73248
Fund (Fund 024), the Highway Safety Building Fund (Fund 025), the 73249
Administrative Building Fund (Fund 026), the Adult Correctional 73250
Building Fund (Fund 027), the Juvenile Correctional Building Fund 73251
(Fund 028), the Transportation Building Fund (Fund 029), the Arts 73252
Facilities Building Fund (Fund 030), the Natural Resources 73253
Projects Fund (Fund 031), the School Building Program Assistance 73254

Fund (Fund 032), the Mental Health Facilities Improvement Fund 73255
(Fund 033), the Higher Education Improvement Fund (Fund 034), the 73256
Parks and Recreation Improvement Fund (Fund 035), the State 73257
Capital Improvements Fund (Fund 038), the Highway Obligation Fund 73258
(Fund 041), the Coal Research/Development Fund (Fund 046), and any 73259
other fund into which proceeds of obligations are deposited. 73260
Nothing contained in this section is intended to subject the state 73261
to suit in any forum in which it is not otherwise subject to suit, 73262
nor is it intended to waive or compromise any defense or right 73263
available to the state in any suit against it. 73264

Section 118. * UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS 73265

The maximum amounts that may be assessed against nuclear 73266
electric utilities in accordance with division (B)(2) of section 73267
4937.05 of the Revised Code are as follows: 73268

	FY 2004	FY 2005	
Department of Agriculture			73270
Fund 4E4 Utility Radiological Safety	\$73,059	\$73,059	73271
Department of Health			73272
Fund 610 Radiation Emergency Response	\$923,315	\$923,315	73273
Environmental Protection Agency			73274
Fund 644 ER Radiological Safety	\$281,424	\$286,114	73275
Emergency Management Agency			73276
Fund 657 Utility Radiological Safety	\$1,200,000	\$1,260,000	73277

Section 119. UNCLAIMED FUNDS TRANSFER 73278

Notwithstanding division (A) of section 169.05 of the Revised 73279
Code, prior to June 30, 2004, upon the request of the Director of 73280
Budget and Management, the Director of Commerce shall transfer to 73281
the General Revenue Fund up to \$25,000,000 of the unclaimed funds 73282
that have been reported by the holder of unclaimed funds as 73283
provided by section 169.05 of the Revised Code, irrespective of 73284

the allocation of the unclaimed funds under that section.	73285
Section 120. GRF TRANSFER TO FUND 5N4, OAKS PROJECT	73286
IMPLEMENTATION	73287
On July 1, 2003, or as soon thereafter as possible, the	73288
Director of Budget and Management shall transfer \$1,250,000 in	73289
cash from the General Revenue Fund to Fund 5N4, OAKS Project	73290
Implementation. On July 1, 2004, or as soon thereafter as	73291
possible, the Director of Budget and Management shall transfer	73292
\$1,250,000 in cash from the General Revenue Fund to Fund 5N4, OAKS	73293
Project Implementation.	73294
Section 121. CORPORATE AND UCC FILING FUND TRANSFER TO GRF	73295
Not later than the first day of June in each year of the	73296
biennium, the Director of Budget and Management shall transfer	73297
\$1,000,000 from the Corporate and Uniform Commercial Code Filing	73298
Fund to the General Revenue Fund.	73299
Section 122. GENERAL OBLIGATION DEBT SERVICE PAYMENTS	73300
Certain appropriations are in this act for the purpose of	73301
paying debt service and financing costs on general obligation	73302
bonds or notes of the state issued pursuant to the Ohio	73303
Constitution and acts of the General Assembly. If it is determined	73304
that additional appropriations are necessary for this purpose,	73305
such amounts are appropriated.	73306
Section 123. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF	73307
STATE	73308
Certain appropriations are in this act for the purpose of	73309
making lease payments pursuant to leases and agreements relating	73310
to bonds or notes issued by the Ohio Building Authority or the	73311
Treasurer of State or, previously, by the Ohio Public Facilities	73312

Commission, pursuant to the Ohio Constitution and acts of the 73313
General Assembly. If it is determined that additional 73314
appropriations are necessary for this purpose, such amounts are 73315
appropriated. 73316

Section 124. AUTHORIZATION FOR TREASURER OF STATE AND OBM TO 73317
EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 73318

The Office of Budget and Management shall initiate and 73319
process disbursements from general obligation and lease rental 73320
payment appropriation items during the period from July 1, 2003, 73321
to June 30, 2005, relating to bonds or notes issued under Sections 73322
2i, 2k, 2l, 2m, 2n, 2o, and 15 of Article VIII, Ohio Constitution, 73323
and Chapters 151., 154., and 3318. of the Revised Code. 73324
Disbursements shall be made upon certification by the Treasurer of 73325
State of the dates and amounts due on those dates. 73326

Section 125. STATE AND LOCAL REBATE AUTHORIZATION 73327

There is hereby appropriated, from those funds designated by 73328
or pursuant to the applicable proceedings authorizing the issuance 73329
of state obligations, amounts computed at the time to represent 73330
the portion of investment income to be rebated or amounts in lieu 73331
of or in addition to any rebate amount to be paid to the federal 73332
government in order to maintain the exclusion from gross income 73333
for federal income tax purposes of interest on those state 73334
obligations pursuant to section 148(f) of the Internal Revenue 73335
Code. 73336

Rebate payments shall be approved and vouchered by the Office 73337
of Budget and Management. 73338

Section 126. APPROPRIATIONS RELATED TO CASH TRANSFERS AND 73339
REESTABLISHMENT OF ENCUMBRANCES 73340

Any cash transferred by the Director of Budget and Management 73341

as provided by section 126.15 of the Revised Code is appropriated. 73342
Any amounts necessary to reestablish appropriations or 73343
encumbrances as provided in section 126.15 of the Revised Code are 73344
appropriated. 73345

Section 127. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT 73346

Pursuant to the plan for compliance with the Federal Cash 73347
Management Improvement Act required by section 131.36 of the 73348
Revised Code, the Director of Budget and Management is authorized 73349
to cancel and reestablish all or parts of encumbrances in like 73350
amounts within the funds identified by the plan. The amounts 73351
necessary to reestablish all or parts of encumbrances are 73352
appropriated. 73353

Section 128. STATEWIDE INDIRECT COST RECOVERY 73354

Whenever the Director of Budget and Management determines 73355
that an appropriation made to a state agency from a fund of the 73356
state is insufficient to provide for the recovery of statewide 73357
indirect costs pursuant to section 126.12 of the Revised Code, the 73358
amount required for such purpose is appropriated from the 73359
available receipts of such fund. 73360

Section 129. GRF TRANSFERS ON BEHALF OF THE STATEWIDE 73361
INDIRECT COST ALLOCATION PLAN 73362

The total transfers made from the General Revenue Fund by the 73363
Director of Budget and Management pursuant to this section shall 73364
not exceed the amounts transferred into the General Revenue Fund 73365
pursuant to division (B) of section 126.12 of the Revised Code. 73366

A director of an agency may certify to the Director of Budget 73367
and Management the amount of expenses not allowed to be included 73368
in the Statewide Indirect Cost Allocation plan pursuant to federal 73369
regulations, from any fund included in the Statewide Indirect Cost 73370

Allocation plan, prepared as required by section 126.12 of the Revised Code. 73371
73372

Upon determining that no alternative source of funding is available to pay for such expenses, the Director of Budget and Management may transfer from the General Revenue Fund into the fund for which the certification is made, up to the amount of the certification. The director of the agency receiving such funds shall include, as part of the next budget submission prepared pursuant to section 126.02 of the Revised Code, a request for funding for such activities from an alternative source such that further federal disallowances would not be required. 73373
73374
73375
73376
73377
73378
73379
73380
73381

Section 130. REAPPROPRIATION OF UNEXPENDED ENCUMBERED BALANCES OF OPERATING APPROPRIATIONS 73382
73383

An unexpended balance of an operating appropriation or reappropriation that a state agency lawfully encumbered prior to the close of a fiscal year is reappropriated on the first day of July of the following fiscal year from the fund from which it was originally appropriated or reappropriated for the following period and shall remain available only for the purpose of discharging the encumbrance: 73384
73385
73386
73387
73388
73389
73390

(A) For an encumbrance for personal services, maintenance, equipment, or items for resale, other than an encumbrance for an item of special order manufacture not available on term contract or in the open market or for reclamation of land or oil and gas wells for a period of not more than five months from the end of the fiscal year; 73391
73392
73393
73394
73395
73396

(B) For an encumbrance for an item of special order manufacture not available on term contract or in the open market, for a period of not more than five months from the end of the fiscal year or, with the written approval of the Director of Budget and Management, for a period of not more than twelve months 73397
73398
73399
73400
73401

from the end of the fiscal year; 73402

(C) For an encumbrance for reclamation of land or oil and gas 73403
wells, for a period ending when the encumbered appropriation is 73404
expended or for a period of two years, whichever is less; 73405

(D) For an encumbrance for any other expense, for such period 73406
as the director approves, provided such period does not exceed two 73407
years. 73408

Any operating appropriations for which unexpended balances 73409
are reappropriated beyond a five-month period from the end of the 73410
fiscal year, pursuant to division (B) of this section, shall be 73411
reported to the Controlling Board by the Director of Budget and 73412
Management by the thirty-first day of December of each year. The 73413
report on each such item shall include the item, the cost of the 73414
item, and the name of the vendor. This report to the board shall 73415
be updated on a quarterly basis for encumbrances remaining open. 73416

Upon the expiration of the reappropriation period set out in 73417
divisions (A), (B), (C), or (D) of this section, a reappropriation 73418
made pursuant to this section lapses, and the Director of Budget 73419
and Management shall cancel the encumbrance of the unexpended 73420
reappropriation not later than the end of the weekend following 73421
the expiration of the reappropriation period. 73422

Notwithstanding the preceding paragraph, with the approval of 73423
the Director of Budget and Management, an unexpended balance of an 73424
encumbrance that was reappropriated on the first day of July 73425
pursuant to this section for a period specified in division (C) or 73426
(D) of this section and that remains encumbered at the close of 73427
the fiscal biennium is hereby reappropriated pursuant to this 73428
section on the first day of July of the following fiscal biennium 73429
from the fund from which it was originally appropriated or 73430
reappropriated for the applicable period specified in division (C) 73431
or (D) of this section and shall remain available only for the 73432

purpose of discharging the encumbrance. 73433

If the Controlling Board approved a purchase, that approval 73434
remains in effect as long as the appropriation used to make that 73435
purchase remains encumbered. 73436

Section 131. FEDERAL GOVERNMENT INTEREST REQUIREMENTS 73437

Notwithstanding any provision of law to the contrary, on or 73438
before the first day of September of each fiscal year, the 73439
Director of Budget and Management, in order to reduce the payment 73440
of adjustments to the federal government, as determined by the 73441
plan prepared pursuant to division (A) of section 126.12 of the 73442
Revised Code, may designate such funds as the director considers 73443
necessary to retain their own interest earnings. 73444

Section 132.01. That Section 14 of Am. Sub. S.B. 242 of the 73445
124th General Assembly be amended to read as follows: 73446

Sec. 14. All items set forth in this section are hereby 73447
appropriated out of any moneys in the state treasury to the credit 73448
of the Education Facilities Trust Fund (Fund N87) that are not 73449
otherwise appropriated. 73450

Appropriations

SFC SCHOOL FACILITIES COMMISSION			73451
CAP-780 Classroom Facilities Assistance Program	\$	148,400,000	73452
		<u>25,600,000</u>	
Total School Facilities Commission	\$	148,400,000	73453
		<u>25,600,000</u>	
TOTAL Education Facilities Trust Fund	\$	148,400,000	73454
		<u>25,600,000</u>	

Section 132.02. That existing Section 14 of Am. Sub. S.B. 242 73456
of the 124th General Assembly is hereby repealed. 73457

Section 132.03. That Section 3 of Am. Sub. H.B. 215 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:

Sec. 3. Section 1751.68 of the Revised Code is hereby repealed, effective October 16, ~~2003~~ 2005.

Section 132.04. That existing Section 3 of Am. Sub. H.B. 215 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.

Section 132.05. * That Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:

Sec. 3. That sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the Revised Code are hereby repealed, effective ~~July 1,~~ October 15, 2005.

Section 132.06. * That existing Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.

Section 132.07. That Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 5112.19, 5112.21, and 5112.99 of the Revised Code are hereby repealed, effective October 16, ~~2003~~ 2005.

(B) Any money remaining in the Legislative Budget Services

Fund on October 16, ~~2003~~ 2005, the date that section 5112.19 of 73483
the Revised Code is repealed by division (A) of this section, 73484
shall be used solely for the purposes stated in then former 73485
section 5112.19 of the Revised Code. When all money in the 73486
Legislative Budget Services Fund has been spent after then former 73487
section 5112.19 of the Revised Code is repealed under division (A) 73488
of this section, the fund shall cease to exist. 73489

Section 132.08. That existing Section 153 of Am. Sub. H.B. 73490
117 of the 121st General Assembly, as most recently amended by Am. 73491
Sub. H.B. 94 of the 124th General Assembly, is hereby repealed. 73492

Section 132.09. That Section 27 of Sub. H.B. 670 of the 121st 73493
General Assembly, as amended by Sub. H.B. 548 of the 123rd General 73494
Assembly, be amended to read as follows: 73495

Sec. 27. The following agencies shall be retained pursuant to 73496
division (D) of section 101.83 of the Revised Code and shall 73497
expire on December 31, 2004: 73498

REVISED CODE 73499
OR
~~UNCODIFIED~~ 73500
UNCODIFIED

AGENCY NAME	SECTION	
Advisory Council on Amusement Ride Safety	1711.51	73502
Advisory Board of Directors for Prison Labor	5145.162	73503
Appalachian Public Facilities Council	Sec. 3, H.B. 280, 121st GA	73504
Apprenticeship Council	4111.26	73505
Armory Board of Control	5911.09	73506
Banking Commission	1123.01	73507
Board of Voting Machine Examiners	3506.05(B)	73508
Board of Governors, Medical Malpractice Joint	3929.77	73509

Underwriting Association		
Board of Tax Appeals	5703.02	73510
Brain Injury Advisory Committee Committee	3304.231	73511
	3304.231	
Capitol Square Review and Advisory Board	105.41	73512
Child Support Guideline Advisory Council	3113.215(G)	73513
Children's Trust Fund Board	3109.15	73514
Citizen's Advisory Council (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	73515
Citizen's Advisory Council (Dept. of Mental Health)	5119.81	73516
Civilian Conservation Advisory Committee	1553.10	73517
Coastal Resources Advisory Council	1506.12	73518
Commission on African-American Males	4112.12	73519
Commission on Hispanic-Latino Affairs	121.31	73520
Commodity Advisory Commission	926.32	73521
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	73522
Continuing Education Committee (for sheriffs)	109.80	73523
Controlling Board	127.12	73524
Council on Alcohol and Drug Addiction Services	3793.09	73525
Council on Unreclaimed Strip Mine Lands	1513.29	73526
County Sheriffs' Standard Car Marking and Uniform Commission	311.25	73527
Criminal Sentencing Advisory Committee	181.22	73528
Day-Care Advisory Council	5104.08	73529
Development Financing Advisory Council	122.40	73530
Electrical Safety Inspector Advisory Committee	3783.08	73531
Engineering Experiment Station Advisory Committee	3335.27	73532
Environmental Review Appeals Commission	3745.02	73533
Environmental Education Council	3745.21	73534
Forestry Advisory Council	1503.40	73535
Governor's Community Service Council	121.40	73536

Governor's Council on People with Disabilities	3303.41	73537
Hazardous Waste Facility Board	3734.05	73538
Health Care Quality Advisory Council	4121.442	73539
Health Data Advisory Committee	3729.61	73540
Hemophilia Advisory Council	3701.145	73541
Historic Site Preservation Advisory Board	149.301	73542
Home Health Agency Advisory Council	3701.88	73543
Hospital Advisory Committee and the Medical Advisory Committee of the Joint Underwriting Association Board of Governors	3929.76	73544
Industrial Commission	4121.02	73545
Industrial Commission Nominating Council	4121.04	73546
Industrial Technology and Enterprise Advisory Council	122.29	73547
Insurance Agent Education Advisory Council	3905.483	73548
Interagency Recycling Market Development Workgroup	1502.10	73549
Joint Select Committee on Volume Cap	133.021	73550
Labor-Management Government Advisory Council	4121.70	73551
Legal Rights Service Commission	5123.60	73552
Martha Kinney Cooper Ohioana Library Association Board of Trustees	3375.62	73553
Maternal and Child Health Council	3701.025	73554
Medicaid Long-Term Care Reimbursement Study Council	5111.34	73555
Medically Handicapped Children's Medical Advisory Council	3701.025	73556
Milk Sanitation Board	917.03	73557
Mine Subsidence Insurance Governing Board	3929.51	73558
Multi-Agency Radio Communication Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	73559
Multidisciplinary Council	3746.03	73560
National Museum of Afro-American History and Culture Planning Committee	149.303	73561

Ohio Advisory Council for the Aging	173.03	73562
Ohio Arts Council	3379.02	73563
Ohio Arts and Sports Facilities Commission	3383.02	73564
Ohio Benefit Systems Data Linkage Committee	125.24	73565
Ohio Bicentennial Commission	149.32	73566
Ohio Cemetery Dispute Resolution Commission	4767.05	73567
Ohio Commission on Dispute Resolution and Conflict Management	179.02	73568
Ohio Educational Telecommunications Network Commission	3353.02	73569
Ohio Ethics Commission	102.05	73570
Ohio Expositions Commission	991.02	73571
Ohio Family and Children First Cabinet Council	121.37	73572
Ohio Geology Advisory Council	1505.11	73573
Ohio Grape Industries Committee	924.51	73574
Ohio Historical Society Board of Trustees	149.30	73575
Ohio Lake Erie Commission	1506.21	73576
Ohio Medical Quality Foundation	3701.89	73577
Ohio Natural Areas Council	1517.03	73578
Ohio Parks and Recreation Council	1541.40	73579
Ohio Peace Officer Training Commission	109.71	73580
Ohio Public Defender Commission	120.01	73581
Ohio Quarter Horse Development Commission	3769.086	73582
Ohio Scenic Rivers Advisory Councils	1517.18	73583
Ohio Small Government Capital Improvements Commission	164.02	73584
Ohio Soil and Water Conservation Commission	1515.02	73585
Ohio Standardbred Development Commission	3769.085	73586
Ohio Steel Industry Advisory Council	122.97	73587
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	73588
Ohio Thoroughbred Racing Advisory Committee	3769.084	73589
Ohio Tuition Trust Authority	3334.03	73590

Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	73591
Ohio Vendors Representative Committee	3304.34	73592
Ohio Veterans' Home Board of Trustees	5907.02	73593
Ohio War Orphans Scholarship Board	5910.02	73594
Ohio Water Advisory Council	1521.031	73595
Oil and Gas Commission	1509.35	73596
Organized Crime Investigations Commission	177.01	73597
Parole Board	5149.10	73598
Pharmacy and Therapeutics Committee of the Dept. of Human Services	5111.81	73599
Physical Fitness and Sports Advisory Board	3701.77	73600
Power Siting Board	4906.02	73601
Private Water Systems Advisory Council	3701.346	73602
Public Employment Risk Reduction Advisory Commission	4167.02	73603
Public Utilities Commission Nominating Council	4901.021	73604
Reclamation Commission	1513.05	73605
Recreation and Resources Commission	1501.04	73606
Recycling and Litter Prevention Advisory Council	1502.04	73607
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	73608
Select Commission on Pyrotechnics	Sec. 3, H.B. 508, 119th GA	73609
Services Committee of the Workers' Compensation System	4121.06	73610
Set Aside Review Board	123.151(C)(4)	73611
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	73612
Solid Waste Management Advisory Council	3734.51	73613
State Board of Deposit	135.02	73614
State Board of Library Examiners	3375.47	73615
State Council of Uniform State Laws	105.21	73616

State Committee for the Purchase of Products and Services of Persons with Severe Disabilities	4115.32	73617
State Criminal Sentencing Commission	181.21	73618
State Fire Commission	3737.81	73619
State and Local Government Commission of Ohio	105.45	73620
State Victims Assistance Advisory Committee	109.91	73621
Student Tuition Recovery Authority	3332.081	73622
Subcommittee of the State Board of Emergency Medical Services for Firefighter and Fire Safety Inspector Training	4765.55	73623
Submerged Lands Advisory Council	1506.37	73624
Tax Credit Authority	122.17	73625
Technical Advisory Committee to assist the Director of the Ohio Coal Development Office	1551.35	73626
Technical Advisory Council on Oil and Gas	1509.38	73627
Technology Advisory Committee (for Education)	Sec. 45.01, H.B. 117, 121st GA	73628
Unemployment Compensation Review Commission	4141.06	73629
Unemployment Compensation Advisory Council	4141.08	73630
Utility Radiological Safety Board	4937.02	73631
Veterans Advisory Committee	5902.02(K)	73632
Water and Sewer Commission	1525.11(C)	73633
Waterways Safety Council	1547.73	73634
Welfare Oversight Council	5101.93	73635
Wildlife Council	1531.03	73636
Workers' Compensation System Oversight Committee	Sec. 10, H.B. 222, 118th GA	73637
Wright-Dunbar State Heritage Commission	149.321	73638
Section 132.10. That existing Section 27 of Sub. H.B. 670 of the 121st General Assembly, as amended by Sub. H.B. 548 of the 123rd General Assembly, is hereby repealed.		73639 73640 73641

Section 132.11. That Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:

Sec. 5. Sections 3 and 4 of Am. Sub. S.B. 50 of the 121st General Assembly shall take effect July 1, ~~2003~~ 2005.

Section 132.12. That existing Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.

Section 132.13. Section 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 and Am. Sub. S.B. 261 of the 124th General Assembly is hereby repealed.

Section 132.14. Section 129 of Am. Sub. H.B. 283 of the 123rd General Assembly as amended by Am. Sub. H.B. 94 of the 124th General Assembly is hereby repealed.

Section 132.15. * That Section 3 of S.B. 238 of the 123rd General Assembly, which contains a repeal of sections 4779.01 to 4779.13, 4779.15 to 4779.33, and 4779.99 of the Revised Code, is hereby repealed. The intent of this section is to remove the limitation imposed by the repeal upon the continued existence of sections 4779.01 to 4779.13, 4779.15 to 4779.33, and 4779.99 of the Revised Code. This intent is not affected by the rule of statutory interpretation contained in section 1.57 of the Revised Code.

Section 132.16. That Section 11 of Am. Sub. S.B. 50 of the 121st General Assembly, as amended by Am. Sub. H.B. 405 of the 124th General Assembly, is hereby repealed.

Section 133. TRANSFERS FROM THE TOBACCO MASTER SETTLEMENT 73669
AGREEMENT FUND TO THE GENERAL REVENUE FUND 73670

Notwithstanding section 183.02 of the Revised Code, on or 73671
before June 30, 2004, the Director of Budget and Management may 73672
transfer up to \$242,800,000 to the General Revenue Fund from the 73673
Tobacco Master Settlement Agreement Fund (Fund 087), as provided 73674
in divisions (A) and (B) of this section: 73675

(A) Up to \$120,000,000 of the revenue that otherwise would be 73676
transferred from the Tobacco Master Settlement Agreement Fund to 73677
the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) 73678
shall instead be transferred to the General Revenue Fund. Of the 73679
tobacco revenue that is credited to the Tobacco Master Settlement 73680
Agreement Fund in fiscal year 2004, the share that is determined 73681
pursuant to section 183.02 of the Revised Code to be the amount to 73682
be transferred by the Director of Budget and Management from the 73683
Tobacco Master Settlement Agreement Fund to the Tobacco Use 73684
Prevention and Cessation Trust Fund shall be reduced by the amount 73685
that is transferred from the Tobacco Master Settlement Agreement 73686
Fund to the General Revenue Fund in accordance with this division. 73687

(B) Up to \$122,800,000 of the revenue that otherwise would be 73688
transferred from the Tobacco Master Settlement Agreement Fund to 73689
the Education Facilities Trust Fund (Fund N87) shall instead be 73690
transferred to the General Revenue Fund. Of the tobacco revenue 73691
that is credited to the Tobacco Master Settlement Agreement Fund 73692
in fiscal year 2004, the share that is determined pursuant to 73693
section 183.02 of the Revised Code to be the amount to be 73694
transferred by the Director of Budget and Management from the 73695
Tobacco Master Settlement Agreement Fund to the Education 73696
Facilities Trust Fund shall be reduced by the amount that is 73697
transferred from the Tobacco Master Settlement Agreement Fund to 73698
the General Revenue Fund in accordance with this division. 73699

Section 134. TEMPORARY ADJUSTMENT TO LOCAL GOVERNMENT 73700
DISTRIBUTIONS 73701

(A) On or before the seventh day of each month of the period 73702
July 2003 through June 2005, the Tax Commissioner shall determine 73703
and certify to the Director of Budget and Management the amount to 73704
be credited, by tax, during that month to the Local Government 73705
Fund, to the Library and Local Government Support Fund, and to the 73706
Local Government Revenue Assistance Fund, respectively, pursuant 73707
to divisions (B), (C), and (D) of this section. 73708

(B) Notwithstanding section 5727.84 of the Revised Code to 73709
the contrary, for the period July 1, 2003, through June 30, 2005, 73710
no amounts shall be credited to the Local Government Fund or to 73711
the Local Government Revenue Assistance Fund from the kilowatt 73712
hour tax, and such amounts that would have otherwise been required 73713
to be credited to such funds shall instead be credited to the 73714
General Revenue Fund. Notwithstanding sections 5727.45, 5733.12, 73715
5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, 73716
for each month in the period July 1, 2003, through June 30, 2005, 73717
from the public utility excise, corporate franchise, sales, use, 73718
and personal income taxes collected; 73719

(1) An amount shall first be credited to the Local Government 73720
Fund that equals the amount credited to that fund from that tax 73721
according to the schedule in division (C) of this section. 73722

(2) An amount shall next be credited to the Local Government 73723
Revenue Assistance Fund that equals the amount credited to that 73724
fund from that tax according to the schedule in division (C) of 73725
this section. 73726

(3) An amount shall next be credited to the Library and Local 73727
Government Support Fund that equals the amount credited to that 73728
fund from that tax according to the schedule in division (C) of 73729

this section. For purposes of determining the amount to be 73730
credited to the Library and Local Government Support Fund in each 73731
month of fiscal year 2004 pursuant to division (C) of this 73732
section, the amount credited in fiscal year 2003 shall be before 73733
the transfer made from the Library and Local Government Support 73734
Fund to the OPLIN Technology Fund under Section 70 of Am. Sub. 73735
H.B. 94 of the 124th General Assembly. For purposes of determining 73736
the amount to be credited to the Library and Local Government 73737
Support Fund in each month of fiscal year 2005 pursuant to 73738
division (C) of this section, the amount credited in fiscal year 73739
2004 shall be before any transfer required to be made from the 73740
Library and Local Government Support Fund to the OPLIN Technology 73741
Fund. 73742

(C) The amounts shall be credited from each tax to each 73743
respective fund as follows: 73744

(1) In July 2003, one hundred two per cent of the amount 73745
credited in July 2002; in July 2004, one hundred two per cent of 73746
the amount credited in July 2003; 73747

(2) In August 2003, one hundred two per cent of the amount 73748
credited in August 2002; in August 2004, one hundred two per cent 73749
of the amount credited in August 2003; 73750

(3) In September 2003, one hundred two per cent of the amount 73751
credited in September 2002; in September 2004, one hundred two per 73752
cent of the amount credited in September 2003; 73753

(4) In October 2003, one hundred two per cent of the amount 73754
credited in October 2002; in October 2004, one hundred two per 73755
cent of the amount credited in October 2003; 73756

(5) In November 2003, one hundred two per cent of the amount 73757
credited in November 2002; in November 2004, one hundred two per 73758
cent of the amount credited in November 2003; 73759

(6) In December 2003, one hundred two per cent of the amount 73760

credited in December 2002; in December 2004, one hundred two per cent of the amount credited in December 2003; 73761
73762

(7) In January 2004, one hundred two per cent of the amount credited in January 2003; in January 2005, one hundred two per cent of the amount credited in January 2004; 73763
73764
73765

(8) In February 2004, one hundred two per cent of the amount credited in February 2003; in February 2005, one hundred two per cent of the amount credited in February 2004; 73766
73767
73768

(9) In March 2004, one hundred two per cent of the amount credited in March 2003; in March 2005, one hundred two per cent of the amount credited in March 2004; 73769
73770
73771

(10) In April 2004, one hundred two per cent of the amount credited in April 2003; in April 2005, one hundred two per cent of the amount credited in April 2004; 73772
73773
73774

(11) In May 2004, one hundred two per cent of the amount in division (C)(11)(a) of this section; in May 2005, one hundred two per cent of the amount in division (C)(11)(b) of this section; 73775
73776
73777

(a) The amount credited in May 2003, less any amount reduced pursuant to division (D)(4) of Section 140 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 of the 124th General Assembly and as amended by Am. Sub. H.B. 390 of the 124th General Assembly; 73778
73779
73780
73781
73782

(b) The amount credited in May 2004. 73783

(12) In June 2004, one hundred two per cent of the amount in division (C)(12)(a) of this section, less any reduction required under division (D)(1) of this section; in June 2005, one hundred two per cent of the amount in division (C)(12)(b) of this section, less any reduction required under division (D)(2) of this section; 73784
73785
73786
73787
73788

(a) The amount credited in June 2003 before any reduction made pursuant to division (D)(4) of Section 140 of Am. Sub. H.B. 73789
73790

94 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 73791
of the 124th General Assembly and as amended by Am. Sub. H.B. 390 73792
of the 124th General Assembly; 73793

(b) The amount credited in June 2004. 73794

(D) The Tax Commissioner shall do each of the following: 73795

(1) By June 7, 2004, the commissioner shall subtract the 73796
amount calculated in division (D)(1)(b) of this section from the 73797
amount calculated in division (D)(1)(a) of this section. If the 73798
amount in division (D)(1)(a) of this section is greater than the 73799
amount in division (D)(1)(b) of this section, then such difference 73800
shall be subtracted from the total amount of income tax revenue 73801
credited to the Local Government Fund, the Local Government 73802
Revenue Assistance Fund, and the Library and Local Government 73803
Support Fund in June 2004. An amount shall be subtracted from 73804
income tax revenue credited to the Local Government Fund, the 73805
Local Government Revenue Assistance Fund, or the Library and Local 73806
Government Support Fund only if, and according to the proportion 73807
by which, such fund contributed to the result that the amount in 73808
division (D)(1)(a) of this section exceeds the amount in division 73809
(D)(1)(b) of this section. 73810

(a) The sum of all money credited to the Local Government 73811
Fund, the Local Government Revenue Assistance Fund, and the 73812
Library and Local Government Support Fund from July 2003 through 73813
May 2004; 73814

(b) The sum of all money that would have been credited to the 73815
Local Government Fund, the Local Government Revenue Assistance 73816
Fund, and the Library and Local Government Support Fund from July 73817
2003 through May 2004, if sections 5727.45, 5727.84, 5733.12, 73818
5739.21, 5741.03, and 5747.03 of the Revised Code were in effect 73819
during this period. 73820

(2) By June 7, 2005, the commissioner shall subtract the 73821

amount calculated in division (D)(2)(b) of this section from the 73822
amount calculated in division (D)(2)(a) of this section. If the 73823
amount in division (D)(2)(a) of this section is greater than the 73824
amount in division (D)(2)(b) of this section, then such difference 73825
shall be subtracted from the total amount of income tax revenue 73826
credited to the Local Government Fund, the Local Government 73827
Revenue Assistance Fund, and the Library and Local Government 73828
Support Fund in June 2005. An amount shall be subtracted from 73829
income tax revenue credited to the Local Government Fund, the 73830
Local Government Revenue Assistance Fund, or the Library and Local 73831
Government Support Fund only if, and according to the proportion 73832
by which, such fund contributed to the result that the amount in 73833
division (D)(2)(a) of this section exceeds the amount in division 73834
(D)(2)(b) of this section. 73835

(a) The sum of all money credited to the Local Government 73836
Fund, the Local Government Revenue Assistance Fund, and the 73837
Library and Local Government Support Fund from June 2004 through 73838
May 2005; 73839

(b) The sum of all money that would have been credited to the 73840
Local Government Fund, the Local Government Revenue Assistance 73841
Fund, and the Library and Local Government Support Fund from June 73842
2004 through May 2005, if sections 5727.45, 5727.84, 5733.12, 73843
5739.21, 5741.03, and 5747.03 of the Revised Code were in effect 73844
during this period. 73845

(3) On the advice of the Tax Commissioner, during any month 73846
other than June 2004 or June 2005 of the period July 1, 2003, 73847
through July 31, 2005, the Director of Budget and Management may 73848
reduce the amounts that are to be otherwise credited to the Local 73849
Government Fund, Local Government Revenue Assistance Fund, or 73850
Library and Local Government Support Fund in order to accomplish 73851
more effectively the purposes of the adjustments in divisions 73852
(D)(1) and (2) of this section. If the respective calculations 73853

made in June 2004 and June 2005 pursuant to divisions (D)(1) and 73854
(2) of this section indicate that excess reductions had been made 73855
during the previous months, such excess amounts shall be credited, 73856
as appropriate, to the Local Government Fund, Local Government 73857
Revenue Assistance Fund, and Library and Local Government Support 73858
Fund. 73859

(E) Notwithstanding any other provision of law to the 73860
contrary, the total amount credited to each fund in each month 73861
during the period July 2003 through June 2005 shall be distributed 73862
by the tenth day of the immediately succeeding month in the 73863
following manner: 73864

(1) Each county undivided local government fund shall receive 73865
a distribution from the Local Government Fund based on its 73866
proportionate share of the total amount received from the fund in 73867
such respective month for the period July 1, 2002, through June 73868
30, 2003. 73869

(2) Each municipality receiving a direct distribution from 73870
the Local Government Fund shall receive a distribution based on 73871
its proportionate share of the total amount received from the fund 73872
in such respective month for the period July 1, 2002, through June 73873
30, 2003. 73874

(3) Each county undivided local government revenue assistance 73875
fund shall receive a distribution from the Local Government 73876
Revenue Assistance Fund based on its proportionate share of the 73877
total amount received from the fund in such respective month for 73878
the period July 1, 2002, through June 30, 2003. 73879

(4) Each county undivided library and local government 73880
support fund shall receive a distribution from the Library and 73881
Local Government Support Fund based on its proportionate share of 73882
the total amount received from the fund in such respective month 73883
for the period July 1, 2002, through June 30, 2003. 73884

(F) For the 2003, 2004, and 2005 distribution years, the Tax Commissioner is not required to issue the certifications otherwise required by sections 5747.47, 5747.501, 5747.51, and 5747.61 of the Revised Code, but shall provide to each county auditor by the twentieth day of July 2003, July 2004, and July 2005 an estimate of the amounts to be received by the county in the ensuing year from the Local Government Fund, Local Government Revenue Assistance Fund, and Library and Local Government Support Fund pursuant to this section and any pertinent section of the Revised Code. The Tax Commissioner may choose to report to each county auditor a revised estimate of the 2003, 2004, or 2005 distributions at any time during the period July 1, 2003, through July 31, 2005.

(G) If provisions of H.B. 40 of the 124th General Assembly are enacted that authorize reductions in the amounts credited to the Local Government Fund, Local Government Revenue Assistance Fund, and Library and Local Government Support Fund during fiscal year 2003, the fiscal year 2003 amounts used in determining the amounts credited to such funds during fiscal year 2004 pursuant to division (C) of this section shall be before any such reductions.

(H) During the period July 1, 2003, through July 31, 2005, the Director of Budget and Management shall issue those directives to state agencies that are necessary to ensure that the appropriate amounts are distributed to the Local Government Fund, to the Local Government Revenue Assistance Fund, and to the Library and Local Government Support Fund.

Section 135. TRANSFER TO THE BUDGET STABILIZATION FUND

On or before June 30, 2005, the Director of Budget and Management shall transfer \$100,000,000 from the General Revenue Fund to the Budget Stabilization Fund (Fund 013).

Section 136. * BOND MONEY APPROPRIATION TO SFC 73915

All items set forth in this section are hereby appropriated 73916
out of any moneys in the state treasury to the credit of the 73917
School Building Program Assistance Fund (Fund 032), created under 73918
section 3318.25 of the Revised Code, derived from the proceeds of 73919
obligations heretofore and herein authorized to pay the cost of 73920
facilities for a system of common schools throughout the state for 73921
the period beginning July 1, 2002, and ending June 30, 2004. The 73922
appropriation shall be in addition to any other appropriation for 73923
this purpose. 73924

Appropriations

SFC SCHOOL FACILITIES COMMISSION 73925

CAP-770 School Building Program Assistance	\$ 122,800,000	73926
Total School Facilities Commission	\$ 122,800,000	73927
TOTAL School Building Program Assistance Fund	\$ 122,800,000	73928

* SCHOOL BUILDING PROGRAM ASSISTANCE 73929

The foregoing appropriation item CAP-770, School Building 73930
Program Assistance, shall be used by the School Facilities 73931
Commission to provide funding to school districts that receive 73932
conditional approval from the Commission pursuant to Chapter 3318. 73933
of the Revised Code. Expenditures from appropriations contained in 73934
this section may be accounted for as though made for the fiscal 73935
year 2003-2004 biennium in H.B. 675 of the 124th General Assembly. 73936
The School Facilities Commission shall not commit any of the 73937
appropriations made in this section until after April 1, 2004. 73938

* BOND ISSUANCE AUTHORITY 73939

The Ohio Public Facilities Commission is hereby authorized to 73940
issue and sell, in accordance with the provisions of Section 2n of 73941
Article VIII, Ohio Constitution, and Chapter 151. and particularly 73942
sections 151.01 and 151.03 of the Revised Code, original 73943

obligations in an aggregate principal amount not to exceed 73944
\$123,000,000, in addition to the original issuance of obligations 73945
heretofore authorized by prior acts of the General Assembly. The 73946
authorized obligations shall be issued, subject to applicable 73947
constitutional and statutory limitations, to pay the costs to the 73948
state of previously authorized capital facilities and the capital 73949
facilities authorized in this section for the School Building 73950
Program Assistance Fund pursuant to Chapter 3318. of the Revised 73951
Code. 73952

Section 137. OHIO TECHNOLOGY INTEGRATION TASK FORCE 73953

(A) There is hereby created the Ohio Technology Integration 73954
Task Force. The Task Force shall consist of the Superintendent of 73955
Public Instruction or the Superintendent's designee, the Director 73956
of Budget and Management or the Director's designee, the Director 73957
of Administrative Services or the Director's designee, the 73958
Executive Director of the Ohio Educational Telecommunications 73959
Network Commission or the Executive Director's designee, and the 73960
Chairperson of the Public Utilities Commission of Ohio or the 73961
Chairperson's designee. The Superintendent of Public Instruction 73962
or the individual designated by the Superintendent to serve on the 73963
Task Force shall serve as chairperson of the Task Force. The 73964
chairperson of the Task Force shall call to order the first 73965
meeting of the Task Force not later than July 31, 2003. 73966

The Task Force shall develop a plan to integrate technology 73967
into all of the state's primary and secondary classrooms that 73968
enhances instruction and educational outcomes. The plan shall 73969
include a budget proposal for the fiscal year that begins July 1, 73970
2004, for provision by the Department of Education of the 73971
technology-related services that formerly were provided by the 73972
Ohio SchoolNet Commission, which are scheduled to be transferred 73973
to the Department of Education on July 1, 2004, under division (B) 73974

of this section. The plan shall describe which assets, duties and 73975
authorities, services, and employee positions the Task Force 73976
recommends transferring to the Department and which assets, duties 73977
and authorities, services, and employee positions the task force 73978
recommends eliminating. In developing the plan, the Task Force 73979
shall give consideration to economies of scale anticipated by the 73980
transfer and may confer with and seek the advice of those persons 73981
who are stakeholders in the implementation of technology in the 73982
state's primary and secondary classrooms. 73983

Not later than March 31, 2004, the Task Force shall present 73984
its recommendations to the Controlling Board for the Board's 73985
approval. Upon the Board's approval of the Task Force's plan, the 73986
Task Force shall cease to exist. 73987

(B) Effective July 1, 2004, the Ohio SchoolNet Commission is 73988
abolished and, subject to the plan to integrate technology into 73989
all of the state's primary and secondary classrooms proposed by 73990
the Ohio Technology Integration Task Force and approved by the 73991
Controlling Board under division (A) of this section, its 73992
functions, assets, and liabilities, including but not limited to 73993
vehicles and equipment assigned to employees of the Commission and 73994
records of the Commission regardless of form or medium, are 73995
transferred to the Department of Education. The Department of 73996
Education is thereupon and thereafter successor to, assumes the 73997
obligations of, and otherwise constitutes the continuation of the 73998
Ohio SchoolNet Commission. The functions of the Executive Director 73999
of the Commission are thereupon and thereafter transferred to the 74000
Superintendent of Public Instruction. 74001

Any business commenced but not completed by the Ohio 74002
SchoolNet Commission or the Executive Director of the Commission 74003
on July 1, 2004, shall be completed by the Department of Education 74004
or the Superintendent of Public Instruction, respectively, in the 74005
same manner, and with the same effect, as if completed by the Ohio 74006

SchoolNet Commission or the Executive Director of the Commission. 74007
No validation, cure, right, privilege, remedy, obligation, or 74008
liability is lost or impaired by reason of the transfer required 74009
under this section and shall be administered by the Department of 74010
Education. All of the Ohio SchoolNet Commission's rules, orders, 74011
and determinations continue in effect as rules, orders, and 74012
determinations of the Department of Education, until modified or 74013
rescinded by the Department. If necessary to ensure the integrity 74014
of the Administrative Code, the Director of the Legislative 74015
Service Commission shall renumber the Ohio SchoolNet Commission's 74016
rules to reflect their transfer to the Department of Education. 74017

(C) Employees of Ohio SchoolNet Commission shall be 74018
transferred to the Department of Education or dismissed in 74019
accordance with the plan proposed by the Ohio Technology 74020
Integration Task Force and approved by the Controlling Board under 74021
division (A) of this section. Subject to lay-off provisions of 74022
sections 124.321 to 124.328 of the Revised Code, those employees 74023
of the Ohio SchoolNet Commission so transferred to the Department 74024
of Education retain their positions and all of the benefits 74025
accruing thereto. Employees of the Ohio SchoolNet Commission so 74026
dismissed cease to hold their positions of employment on July 1, 74027
2004. 74028

Ohio SchoolNet Commission employees transferred under 74029
provisions of this section shall remain in the unclassified 74030
service of the state. 74031

The reassignment of the functions and duties of Ohio 74032
SchoolNet Commission employees under this section is not a subject 74033
appropriate for collective bargaining under Chapter 4117. of the 74034
Revised Code. All positions of any Ohio SchoolNet Commission 74035
employees transferred to the Department of Education under this 74036
section shall not be subject to Chapter 4117. of the Revised Code 74037
in the same manner as when those positions were under the 74038

authority of the Ohio SchoolNet Commission. 74039

(D) No judicial or administrative action or proceeding in 74040
which the Ohio SchoolNet Commission or the Executive Director of 74041
the Commission is a party that is pending on July 1, 2004, is 74042
affected by the transfer of functions under division (B) of this 74043
section. Such action or proceeding shall be prosecuted or defended 74044
in the name of the Superintendent of Public Instruction. On 74045
application to the court or other tribunal, the Superintendent of 74046
Public Instruction shall be substituted for the Executive Director 74047
of the Commission as a party to such action or proceeding. 74048

(E) On and after July 1, 2004, when the Ohio SchoolNet 74049
Commission or the Executive Director of the Ohio SchoolNet 74050
Commission is referred to in any statute, rule, contract, grant, 74051
or other document, the reference is hereby deemed to refer to the 74052
Department of Education or Superintendent of Public Instruction, 74053
respectively. 74054

(F) Effective July 1, 2004, the functions that the Ohio 74055
SchoolNet Commission performs under a grant agreement with the 74056
United States Department of Education are assigned to the Ohio 74057
Department of Education, subject to ratification by the 74058
department. 74059

Section 138. (A) As used in this section, "nursing facility" 74060
means a facility, or a distinct part of a facility, that is 74061
certified as a nursing facility by the Director of Health for 74062
purposes of the Medicaid Program and is not an intermediate care 74063
facility for the mentally retarded. "Nursing facility" includes a 74064
facility, or a distinct part of a facility, that is certified as a 74065
skilled nursing facility by the Director of Health for purposes of 74066
the Medicare Program. 74067

(B) The Director of Health shall request from the Secretary 74068
of the United States Department of Health and Human Services 74069

approval to develop an alternative regulatory procedure for 74070
nursing facilities subject to federal regulation. If the Secretary 74071
gives approval, the Director shall convene the Nursing Facility 74072
Regulatory Reform Task Force. 74073

(C) The Director of Health shall serve as chair of the Task 74074
Force. The Director of Aging, the Director of Job and Family 74075
Services, the State Long-Term Care Ombudsman, or persons they 74076
designate and a member of the Governor's staff designated by the 74077
Governor shall serve on the Task Force. The Director of Health 74078
shall appoint the following individuals to serve on the Task 74079
Force: 74080

(1) Two representatives of the Ohio Health Care Association; 74081

(2) Two representatives of the Association of Ohio 74082
Philanthropic Homes and Housing for the Aging; 74083

(3) Two representatives of the Ohio Academy of Nursing Homes; 74084

(4) Two representatives of the American Association of 74085
Retired Persons (AARP); 74086

(5) Two representatives of Families for Improved Care; 74087

(6) A representative from the Ohio Association of Regional 74088
Long-Term Care Ombudsman Programs; 74089

(7) A representative of the 1199 League of Registered Nurses; 74090

(8) A representative of the American Federation of State, 74091
County, and Municipal Employees. 74092

(D) Except to the extent that service on the task force is 74093
part of their employment, Task Force members shall serve without 74094
compensation and shall not be reimbursed by the State for expenses 74095
incurred in carrying out their duties on the Task Force. The 74096
Scripps Gerontology Center at Miami University shall provide 74097
technical and support services for the Task Force. 74098

(E) The Task Force shall do all of the following: 74099

(1) Review the effectiveness of current regulatory procedures for nursing facilities regarding the quality of care and quality of life of nursing facility residents; 74100
74101
74102

(2) Develop recommendations for improved regulatory procedures for nursing facilities to improve the quality of care and quality of life of nursing facility residents; 74103
74104
74105

(3) Evaluate potential effects on nursing facility residents of elimination of components of the Certificate of Need program pertaining to long-term care facilities; 74106
74107
74108

(4) Develop possible demonstration projects to present the potential of proposed changes to the regulatory procedure to increase the quality of care and the quality of life of nursing facility residents. 74109
74110
74111
74112

(F) The Task Force shall submit a report of its findings and recommendations to the Speaker and Minority Leader of the House of Representatives and to the President and Minority Leader of the Senate. The report shall explain any changes to the Revised Code required to implement the recommendations. On submission of the recommendations, the Task Force shall cease to exist. 74113
74114
74115
74116
74117
74118

(G) At the request of the General Assembly by adoption of a joint resolution, the Director of Health shall apply to the Secretary of the United States Department of Health and Human Services for a waiver to implement the recommendations of the Task Force. 74119
74120
74121
74122
74123

Section 139.01. In amending sections 121.084, 4104.41, 4104.44, 4104.45, and 4104.46 (4104.48), in enacting new section 4104.46 and section 4104.47, and in repealing and re-enacting sections 4104.42 and 4104.43 of the Revised Code, it is the intent of the General Assembly that the provisions of this act are general laws created in the exercise of the state's police power, 74124
74125
74126
74127
74128
74129

arising out of matters of statewide concern, and are designed for 74130
the health, safety, and welfare of contractors, their employees, 74131
and the public. 74132

Section 139.02. In amending sections 121.084, 4104.41, 74133
4104.44, 4104.45, and 4104.46 (4104.48), in enacting new section 74134
4104.46 and section 4104.47, and in repealing and re-enacting 74135
sections 4104.42 and 4104.43 of the Revised Code, it is the intent 74136
of the General Assembly that power, refrigerating, hydraulic, 74137
heating and liquefied petroleum gas, oxygen, and other gaseous 74138
piping systems will continue to be inspected as part of the 74139
building permit process, enforcement of plumbing and mechanical 74140
building codes, and occupancy certification. The purpose of this 74141
legislative action is solely to eliminate duplicative inspection 74142
personnel and fees. 74143

Section 140. DISABILITY ASSISTANCE TRANSITION 74144

(A) Subject to the provisions of Chapter 5115. of the Revised 74145
Code, as amended, enacted, and repealed by this act, the 74146
Disability Financial Assistance Program constitutes a continuation 74147
of the financial assistance component of the Disability Assistance 74148
Program established under Chapter 5115. of the Revised Code, as it 74149
existed prior to the effective date of this section, and the 74150
Disability Medical Assistance Program constitutes a continuation 74151
of the medical assistance component of the Disability Assistance 74152
Program. 74153

Any business commenced but not completed on behalf of the 74154
Disability Assistance Program shall be completed in the same 74155
manner, and with the same effect, on behalf of the Disability 74156
Financial Assistance Program and the Disability Medical Assistance 74157
Program. 74158

Except as provided in division (B) and (C) of this section, 74159

all rules, orders, and determinations regarding the Disability Assistance Program continue in effect as rules, orders, and determinations regarding the Disability Financial Assistance Program and the Disability Medical Assistance Program, until modified or rescinded.

Wherever the Disability Assistance Program is referred to in any law, contract, or other document, the reference shall be deemed to refer to the Disability Assistance Program or the Disability Medical Assistance Program, whichever is appropriate.

(B) Notwithstanding any determination through administrative or judicial order or otherwise, a person who was receiving financial assistance under the Disability Assistance Program prior to the effective date of this section ceases to be eligible for continued financial assistance under the Disability Financial Assistance Program on the effective date of this section, unless one of the following is the case:

(1) The person was receiving the assistance on the basis of being age 60 or older or on the basis of being unable to do any substantial or gainful activity by reason or a medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for not less than nine months.

(2) The person was receiving the assistance by meeting other eligibility requirements but applies for Disability Financial Assistance pursuant to section 5115.05 of the Revised Code, as amended by this act, and receives a determination of eligibility by meeting the requirements specified in section 5115.01 of the Revised Code, as amended by this act.

(C) Notwithstanding the provisions of section 5115.10 of the Revised Code, as amended by this act, that limit eligibility for disability medical assistance to persons determined to be

medication dependent, both of the following apply: 74191

(1) The Director of Job and Family Services may adopt rules 74192
in accordance with section 111.15 of the Revised Code providing 74193
for and governing temporary provision of disability medical 74194
assistance to persons who were recipients of medical assistance 74195
under the Disability Assistance Program prior to the effective 74196
date of this section. 74197

(2) A person's eligibility for disability medical assistance 74198
may continue pursuant to the rules adopted under division (C)(1) 74199
of this section until the state or county department of job and 74200
family services conducts a redetermination of the person's 74201
eligibility in accordance with the requirement that recipients be 74202
medication dependent, unless the person otherwise becomes 74203
ineligible for disability medical assistance. 74204

Section 140.01. * Notwithstanding sections 5101.60 to 5101.70 74205
of the Revised Code, as amended or enacted by this act, cases 74206
referred to a county department of job and family services under 74207
section 5126.31 and investigations by the department of reports 74208
provided for in section 5101.61 of the Revised Code that were 74209
initiated before the effective date of this section shall be 74210
completed in accordance with the law as it existed on the date the 74211
referrals or reports were made. The county department of job and 74212
family services may provide necessary protective services in those 74213
cases if funding is locally available. 74214

Section 141. (A) As used in this section, "family support 74215
services," "home and community-based services," "service and 74216
support administration," and "supported living" have the same 74217
meaning as in section 5126.01 of the Revised Code. 74218

(B) If one or more new beds obtain certification as an 74219
intermediate care facility for the mentally retarded bed on or 74220

after the effective date of this section, the Director of Mental Retardation and Developmental Disabilities shall transfer funds to the Department of Job and Family Services to pay the nonfederal share of the cost under the Medicaid Program for those beds. The Director shall use only the following funds for the transfer:

(1) If the beds are located in a county served by a county board of mental retardation and developmental disabilities that does not initiate or support the beds' certification, funds appropriated to the Department of Mental Retardation and Developmental Disabilities for home and community-based services and supported living for which the Director is authorized to make allocations to county boards;

(2) If the beds are located in a county served by a county board that initiates or supports the beds' certification, funds appropriated to the Department for family support services, service and support administration, and other services for which the Director is authorized to make allocations to counties.

(C) The funds that the Director transfers under division (B)(2) of this section shall be funds that the Director has allocated to the county board serving the county in which the beds are located unless the amount of the allocation is insufficient to pay the entire nonfederal share of the cost under the Medicaid Program for those beds. If the allocation is insufficient, the Director shall use as much of such funds allocated to other counties as is needed to make up the difference.

Section 142.01. (A) As used in this section, "change of operator," "entering operator," "exiting operator," "nursing facility," "provider," and "provider agreement" have the same meaning as in section 5111.20 of the Revised Code.

(B) Notwithstanding Chapter 5111. of the Revised Code or any other state law to the contrary, the Medicaid reimbursement rate

for nursing facility services provided to a Medicaid recipient 74252
during the period beginning July 1, 2003, and ending June 30, 74253
2005, shall be as follows: 74254

(1) If the provider has a valid provider agreement regarding 74255
the nursing facility on June 30, 2003, the provider's rate for the 74256
nursing facility shall be the same as the provider's rate for the 74257
nursing facility in effect on June 30, 2003; 74258

(2) If the nursing facility undergoes a change of operator 74259
after June 30, 2003, the entering operator's rate for the nursing 74260
facility shall be the same as the exiting operator's rate for the 74261
nursing facility that is in effect on the day before the effective 74262
date of the entering operator's provider agreement; 74263

(3) If the nursing facility both obtains initial 74264
certification as a nursing facility from the director of health 74265
and begins participation in the Medicaid program after June 30, 74266
2003, the provider's rate for the nursing facility shall be the 74267
median of all rates paid to nursing facilities on June 30, 2003; 74268

(4) If one or more Medicaid certified beds are added to the 74269
nursing facility after June 30, 2003, the provider's rate for the 74270
added beds shall be the same as the provider's rate for the 74271
Medicaid certified beds that are in the nursing facility on the 74272
day before the new beds are added. 74273

(C) To calculate overpayments, the Department of Job and 74274
Family Services shall apply an audit adjustment to a cost report 74275
that covers a period ending December 31, 2001, to the rate the 74276
Department pays a provider of nursing facility services provided 74277
to a Medicaid recipient during the period beginning July 1, 2002, 74278
and ending June 30, 2005. 74279

Section 142.02. (A) As used in this section, "change of 74280
operator," "entering operator," "exiting operator," "intermediate 74281

care facility for the mentally retarded," "provider," and 74282
"provider agreement" have the same meaning as in section 5111.20 74283
of the Revised Code. 74284

(B) Notwithstanding Chapter 5111. of the Revised Code or any 74285
other state law to the contrary, the Medicaid reimbursement rate 74286
for intermediate care facility services for the mentally retarded 74287
provided to a Medicaid recipient during the period beginning July 74288
1, 2003, and ending June 30, 2005, shall be as follows: 74289

(1) If the provider has a valid provider agreement regarding 74290
the intermediate care facility for the mentally retarded on June 74291
30, 2003, the provider's rate for the facility shall be the same 74292
as the provider's rate for the facility in effect on June 30, 74293
2003; 74294

(2) If the intermediate care facility for the mentally 74295
retarded undergoes a change of operator after June 30, 2003, the 74296
entering operator's rate for the facility shall be the same as the 74297
exiting operator's rate for the facility that is in effect on the 74298
day before the effective date of the entering operator's provider 74299
agreement; 74300

(3) If the intermediate care facility for the mentally 74301
retarded both obtains initial certification as an intermediate 74302
care facility for the mentally retarded from the director of 74303
health and begins participation in the Medicaid program after June 74304
30, 2003, the provider's rate for the facility shall be the median 74305
of all rates paid to intermediate care facilities for the mentally 74306
retarded on June 30, 2003; 74307

(4) If one or more Medicaid certified beds are added to the 74308
intermediate care facility for the mentally retarded after June 74309
30, 2003, the provider's rate for the added beds shall be the same 74310
as the provider's rate for the Medicaid certified beds that are in 74311
facility on the day before the new beds are added. 74312

(C) To calculate overpayments, the Department of Job and Family Services shall apply an audit adjustment to a cost report that covers a period ending December 31, 2001, to the rate the Department pays a provider of intermediate care facility services for the mentally retarded provided to a Medicaid recipient during the period beginning July 1, 2002, and ending June 30, 2005.

Section 143. If the Department of Job and Family Services enters into a contract with the Department of Mental Retardation and Developmental Disabilities under section 5111.91 of the Revised Code as directed by section 5111.882 of the Revised Code, the Director of Budget and Management shall transfer an amount equal to the sum of the following from appropriation item 600-525, Health Care/Medicaid, to a new appropriation item that the Director of Budget and Management shall create for the Department of Mental Retardation and Developmental Disabilities:

(A) The amount that the Department of Job and Family Services estimates it would spend, for the number of days remaining in fiscal years 2004 and 2005 after the day the waiver requested under division (B)(1) of section 5111.88 of the Revised Code begins to be implemented, under Medicaid for intermediate care facility for the mentally retarded services for individuals approved for services under the waiver requested under division (B)(1) of section 5111.88 of the Revised Code if the individuals continued to receive intermediate care facility for the mentally retarded services instead;

(B) The amount the Department of Mental Retardation and Developmental Disabilities needs to pay the federal share of the first month's payments to providers of services under the waiver requested under division (B)(1) of section 5111.88 of the Revised Code.

Section 144.01. (A) The amendment or enactment by this act of sections 5733.01, 5733.04, 5733.042, 5733.044, 5733.05, 5733.051, 5733.056, 5733.057, 5733.059, 5733.06, 5733.065, 5733.066, 5733.069, 5733.09, and 5733.40 of the Revised Code applies to taxable years ending on or after the date this act becomes law.

(B) The repeal and re-enactment by this act of section 5733.052 of the Revised Code applies to taxable years ending on or after the date this act becomes law.

Section 144.02. The amendment by this act of sections 319.302, 323.152, 5727.06, and 5727.15 of the Revised Code applies to tax years 2003 and thereafter.

Section 144.03. The amendment, repeal and re-enactment, or enactment by this act of sections 718.11, 718.111, 718.112, 718.12, 5717.011, and 5717.03 of the Revised Code apply to matters relating to taxable years beginning on or after January 1, 2003.

Section 144.04. The amendment by this act of division (E) of section 718.01 of the Revised Code applies to taxable years beginning on or after January 1, 2004.

Section 144.05. The amendment by this act of sections 5711.02, 5711.13, and 5711.27 of the Revised Code applies to tax years 2004 and thereafter.

Section 144.06. (A) The amendment by this act of section 5725.26 of the Revised Code first applies to dealers in intangibles for the 2004 return year, and the amendment of sections 5733.05 and 5733.09 of the Revised Code first applies to dealers in intangibles for tax year 2004.

(B) For purposes of determining the tax charged by section

5733.06 of the Revised Code on a dealer in intangibles whose 74370
annual accounting period that includes January 1, 2004, commences 74371
on or before the day this act becomes law, the following apply: 74372

(1) For tax year 2004, the dealer's taxable year is the 74373
period beginning on the first day of the dealer's annual 74374
accounting period that includes January 1, 2004, and ending 74375
December 31, 2003. 74376

(2) For tax year 2005, the dealer's taxable year begins 74377
January 1, 2004, and ends on the date prescribed by division (A) 74378
of section 5733.031 of the Revised Code. 74379

Section 144.07. The annual excise tax imposed by divisions 74380
(D) and (F) of section 5727.30 of the Revised Code, as amended by 74381
this act, for the period of May 1, 2003, to June 30, 2003, is for 74382
a separate privilege year under division (A) of that section, with 74383
a shortened measurement period. A pipe-line or water 74384
transportation company's tax for that period shall be reported and 74385
paid, or, if applicable, refunded, with the statement it files for 74386
the May 1, 2002, through April 30, 2003, measurement period. 74387

Section 144.08. For tax year 2004, a corporation with a 74388
taxable year ending prior to the effective date of the amendment 74389
by this act of sections 5733.06, 5733.065, and 5733.066 of the 74390
Revised Code shall compute the tax imposed by those sections in 74391
the same manner as the tax was imposed under those sections as 74392
they applied to tax year 2003. 74393

Section 144.09. The amendment by this act of section 5733.33 74394
of the Revised Code applies for taxable years ending on or after 74395
the day this act becomes law, and applies for the purpose of 74396
determining any credit available for those taxable years under 74397
division (C)(4) or (D) of section 5733.33 or division (B) of 74398
section 5747.31 of the Revised Code. 74399

The intent of the amendment of section 5733.33 of the Revised Code by this act is not to effect a substantive change, but merely to clarify and eliminate any ambiguity in the version of that section as it existed before its amendment by this act. This intent shall be considered to the extent permitted by law in construing the prior version. Consistent with that intent, that section as amended by this act applies not only to manufacturing machinery and equipment purchased on or after the day this act becomes law, but also in determining the one-seventh credit amounts for manufacturing machinery and equipment purchased before that day. For any taxable year ending on or after the day this act becomes law, no credit shall be allowed under division (C)(4) or (D) of section 5733.33 or division (B) of section 5747.31 of the Revised Code, even for manufacturing machinery and equipment purchased before that day, except to the extent that the credit is allowed under the requirements of section 5733.33 of the Revised Code as amended by this act.

Section 144.10. For tax year 2004, a corporation with a taxable year ending prior to the effective date of the amendment by this act of division (B) of section 5733.39 of the Revised Code shall be entitled to claim the coal credit in the same manner as the credit was allowed under that section as it existed prior to its amendment by this act.

Section 144.11. (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, 2003, or the day on which this act becomes law, whichever is later, as a result of the amendment of section 5743.02 of the Revised Code by this act.

(B) The amendment by this act of sections 5743.02 and 5743.32 74430
of the Revised Code takes effect July 1, 2003, or the day on which 74431
this act becomes law, whichever is later. 74432

(C) In addition to the return required by section 5743.03 of 74433
the Revised Code, each wholesale dealer and each retail dealer 74434
shall make and file a return on forms prescribed by the Tax 74435
Commissioner, showing the net additional tax due and any other 74436
information that the Tax Commissioner considers necessary for the 74437
administration of sections 5743.01 to 5743.20 of the Revised Code. 74438
Not later than September 30, 2003, each wholesale dealer and each 74439
retail dealer shall deliver the return to the Tax Commissioner, 74440
together with a remittance of the net additional tax. Any 74441
wholesale or retail dealer who fails to file a return or remit the 74442
net additional tax as prescribed by this section shall forfeit and 74443
pay into the state treasury, as revenue arising from the tax 74444
imposed by section 5743.02 of the Revised Code, a late charge 74445
equal to the greater of fifty dollars or ten per cent of the tax 74446
due. If the net additional tax or any portion of the net 74447
additional tax, whether determined by the Tax Commissioner or the 74448
wholesale or retail dealer, is not paid on or before the date 74449
prescribed by this section, interest shall be collected and paid 74450
in the same manner as the net additional tax upon the unpaid 74451
amount, computed at the rate per annum prescribed by section 74452
5703.47 of the Revised Code, from the date prescribed for payment 74453
of the net additional tax to the date of payment or to the date an 74454
assessment is issued under section 5743.081 or 5743.082 of the 74455
Revised Code, whichever occurs first. Any unpaid or unreported tax 74456
liability, late charge, or interest levied by this section may be 74457
collected by assessment in the manner provided in section 5743.081 74458
or 5743.082 of the Revised Code. 74459

(D) Interest shall be allowed and paid upon any refund 74460
granted in respect to the payment of an illegal or erroneous 74461

assessment for any net additional tax imposed under this section 74462
from the date of the overpayment. The interest shall be computed 74463
at the rate per annum prescribed by section 5703.47 of the Revised 74464
Code. 74465

Section 144.12. (A) As used in this section, "housing 74466
officer" has the same meaning as in section 3735.65 of the Revised 74467
Code. 74468

(B) Any complaint filed with the tax commissioner on or after 74469
the effective date of this section challenging the continued 74470
exemption of property granted an exemption by a housing officer 74471
under section 3735.67 of the Revised Code shall be certified by 74472
the tax commissioner to the housing officer. The housing officer 74473
shall proceed to hear and determine such complaint in accordance 74474
with division (E) of section 3735.67 of the Revised Code. The 74475
commissioner may hear and determine any such complaint filed with 74476
the commissioner before the effective date of this section or may 74477
certify such complaint to the housing officer for hearing and 74478
determination. 74479

(C) The filing date of any complaint certified to a housing 74480
officer under this section shall be considered to be the date on 74481
which the complaint was filed with the tax commissioner. 74482

Section 144.13. (A) For the purposes of sections 321.24 and 74483
5703.80 of the Revised Code as amended or enacted by this act, the 74484
Tax Commissioner may determine the property tax administrative fee 74485
for fiscal year 2004 at any time after the day this act becomes 74486
law. One-half of the amount of the fee for that year may be 74487
deducted from each of the payments made in the fiscal year under 74488
division (F) of section 321.24 of the Revised Code, or the full 74489
amount of the fee for the year may be deducted from the second of 74490
those payments made in the fiscal year. The Director of Budget and 74491

Management may transfer the fee from the General Revenue Fund to 74492
the Property Tax Administration Fund for fiscal year 2004 in three 74493
equal payments on November 1, 2003, February 1, 2004, and May 1, 74494
2004. 74495

(B) Within thirty days after the Tax Commissioner determines 74496
the property tax administrative fee for fiscal year 2004 under 74497
division (A) of this section, the Tax Commissioner shall notify 74498
the Department of Education of the amount by which each school 74499
district's reimbursement made under division (F) of section 321.24 74500
of the Revised Code, as amended by this act, is to be reduced for 74501
the Property Tax Administration Fund created under section 5703.80 74502
of the Revised Code, as enacted by this act. 74503

Section 145.01. * The Hemophilia Advisory Council established 74504
under section 3701.145 of the Revised Code, renumbered as section 74505
3701.0210 of the Revised Code by this act, is hereby abolished. 74506

Section 145.02. * On the effective date of this section, the 74507
Reclamation Commission is abolished and all of its functions and 74508
assets, liabilities, equipment, and records, irrespective of form 74509
or medium, are transferred to the Environmental Review Appeals 74510
Commission, as provided in Section 1 of this act. The 74511
Environmental Review Appeals Commission is thereupon and 74512
thereafter successor to, assumes the obligations of, and otherwise 74513
constitutes the continuation of the Reclamation Commission. 74514

Any business commenced, but not completed by, the Reclamation 74515
Commission on the effective date of this section shall be 74516
completed by the Environmental Review Appeals Commission. No 74517
validation, cure, right, privilege, remedy, obligation, or 74518
liability is lost or impaired by reason of the transfer required 74519
by this section, but shall be administered by the Environmental 74520
Review Appeals Commission. All of the Reclamation Commission's 74521

rules, orders, and determinations continue in effect as rules, 74522
orders, and determinations of the Environmental Review Appeals 74523
Commission until modified or rescinded by the Environmental Review 74524
Appeals Commission. 74525

Whenever the Reclamation Commission is referred to in any 74526
law, contract, or other document, the reference shall be deemed to 74527
refer to the Environmental Review Appeals Commission. 74528

No action or proceeding pending on the effective date of this 74529
section is affected by the transfer, and such an action or 74530
proceeding shall be prosecuted or defended in the name of the 74531
Environmental Review Appeals Commission. In all such actions and 74532
proceedings, the Environmental Review Appeals Commission shall be 74533
substituted as a party upon application by the receiving entity to 74534
the court or other appropriate tribunal. 74535

Section 145.03. * Upon the taking effect of this section, the 74536
Hazardous Waste Facility Board is abolished. 74537

All of the rules adopted by the Hazardous Waste Facility 74538
Board are abolished on that date. The Director of the Legislative 74539
Service Commission shall remove the rules from the Administrative 74540
Code as if they had been rescinded. 74541

On and after the effective date of this section and until the 74542
Director of Environmental Protection adopts rules that eliminate 74543
references to the Hazardous Waste Facility Board, whenever the 74544
Hazardous Waste Facility Board or Board, when "Board" refers to 74545
the Hazardous Waste Facility Board, is referred to in a rule, the 74546
reference shall be deemed to refer to the Environmental Protection 74547
Agency or the Director of Environmental Protection, whichever is 74548
appropriate. As expeditiously as possible after the effective date 74549
of this section, the Director of Environmental Protection shall 74550
adopt rules eliminating references to the Hazardous Waste Facility 74551
Board. 74552

Permits or modifications issued by the Hazardous Waste Facility Board under section 3734.05 of the Revised Code as that section existed prior to its amendment by this act shall continue in effect as if the Director had issued the permits or modifications under section 3734.05 of the Revised Code after the effective date of its amendment by this act. Any application pending before the Hazardous Waste Facility Board on the effective date of this section shall be transferred to the Environmental Protection Agency for approval or disapproval by the Director. All records, files, and other documents of the Hazardous Waste Facility Board shall be transferred to the Environmental Protection Agency.

Section 146.01. Except as otherwise specifically provided in this act, the codified sections of law amended or enacted in this act, and the items of law of which the codified sections of law amended or enacted in 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, the codified sections of law amended or enacted by this act, and the items of law of which the codified sections of law 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 codified section of law as amended or enacted by this act, or against any item of law of which any such codified section of law as amended or enacted by this act is composed, the codified section of law as amended or enacted, or item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

Section 146.02. Except as otherwise specifically provided in this act, the repeal by this act of a codified section of law is subject to the referendum. Therefore, under Ohio Constitution,

Article II, Section 1c and section 1.471 of the Revised Code, the 74584
repeal by this act of a codified section of law takes effect on 74585
the ninety-first day after this act is filed with the Secretary of 74586
State. If, however, a referendum petition is filed against any 74587
such repeal, the repeal, unless rejected at the referendum, takes 74588
effect at the earliest time permitted by law. 74589

Section 146.03. (A) The repeal by this act of sections 74590
319.311, 718.11, 718.12, 5502.49, 5709.231, 5709.30, 5709.31, 74591
5709.32, 5709.33, 5709.34, 5709.35, 5709.36, 5709.37, 5709.45, 74592
5709.46, 5709.47, 5709.48, 5709.49, 5709.50, 5709.51, 5709.52, 74593
5709.64, 5709.65, 5709.66, 5733.052, 5733.055, 5733.061, 5733.064, 74594
5733.068, 5733.111, 5733.32, 5733.36, 5733.38, 5733.43, 5733.44, 74595
5735.33, 5739.012, 5739.35, 5741.011, 5741.24, 5743.45, 5743.46, 74596
5747.051, 5747.131, 5747.28, 5747.34, 5747.36, 5747.38, 5747.60, 74597
6111.31, 6111.311, 6111.32, 6111.34, 6111.35, 6111.36, 6111.37, 74598
6111.38, and 6111.39 of the Revised Code provides for or is 74599
essential to implementation of a tax levy. Therefore, under Ohio 74600
Constitution, Article II, Section 1d, the repeals, and the items 74601
of which they are composed, are not subject to the referendum and 74602
go into immediate effect when this act becomes law. 74603

(B) The repeal by this act of sections 5727.39 and 5727.44 of 74604
the Revised Code provides for or is essential to implementation of 74605
a tax levy. Therefore, under Ohio Constitution, Article II, 74606
Section 1d, the repeals, and the items of which they are composed, 74607
are not subject to the referendum and go into effect December 31, 74608
2004. 74609

Section 146.04. Except as otherwise provided in this act, the 74610
repeal by this act of sections 122.12, 179.01, 179.02, 179.03, 74611
179.04, 1553.01, 1553.02, 1553.03, 1553.04, 1553.05, 1553.06, 74612
1553.07, 1553.08, 1553.09, 1553.10, 1553.99, 3301.31, 3301.581, 74613
3302.041, 3701.142, 3701.144, 4141.044, 5101.213, 5111.173, 74614

5111.221, 5111.23, 5111.235, 5111.24, 5111.241, 5111.251, 74615
5111.255, 5111.257, 5111.261, 5111.262, 5111.264, 5111.27, 74616
5111.291, 5111.34, 5115.011, 5115.012, 5115.06, and 5115.061 of 74617
the Revised Code is not subject to the referendum. Therefore, 74618
under Ohio Constitution, Article II, Section 1d and section 1.471 74619
of the Revised Code, the repeals go into immediate effect when 74620
this act becomes law. 74621

Section 146.05. The repeal by this act of section 5111.34 of 74622
the Revised Code shall take effect July 1, 2005. 74623

Section 146.06. Sections 117.45, 119.035, 121.04, 122.658, 74624
124.03, 126.11, 127.16, 131.23, 163.06, 173.08, 173.20, 173.21, 74625
173.55, 173.57, 307.202, 307.86, 307.98, 307.981, 307.987, 323.01, 74626
329.03, 329.04, 329.05, 329.051, 329.06, 340.03, 505.69, 717.01, 74627
901.21, 1501.04, 2101.16, 2151.3529, 2151.3530, 2305.234, 2329.66, 74628
2715.041, 2715.045, 2716.13, 2921.13, 3111.04, 3119.01, 3123.952, 74629
3125.12, 3125.25, 3301.31, new 3301.33, 3301.33 (3301.40), 74630
3301.34, 3301.35, 3301.36, 3301.37, 3301.52, 3301.53, 3301.54, 74631
3301.55, 3301.57, 3301.58, 3313.979, 3314.083, 3316.08, 3317.012, 74632
3317.013, 3317.0213, 3317.0217, 3317.022, 3317.023, 3317.024, 74633
3317.029, 3317.03, 3317.032, 3317.05, 3317.064, 3317.07, 3317.10, 74634
3317.11, 3317.16, 3323.16, 3332.04, 3517.092, 3701.021, 3701.022, 74635
3701.029, 3701.141, 3701.145 (3701.0210), 3702.31, 3702.63, 74636
3702.68, 3702.74, 3705.24, 3709.09, 3711.021, 3721.02, 3721.19, 74637
3721.56, 3721.561, 3722.16, 3733.43, 3733.45, 3734.28, 3734.57, 74638
3745.40, 3747.16, 3748.07, 3748.13, 3773.43, 3781.19, 4104.01, 74639
4104.02, 4104.04, 4104.06, 4104.07, 4104.08, 4104.15, 4104.18, 74640
4104.19, 4104.20, 4105.17, 4112.15, 4115.03, 4115.17, 4115.18, 74641
4115.19, 4115.20, 4117.10, 4117.14, 4123.27, 4141.09, 4511.75, 74642
4723.06, 4723.08, 4723.082, 4725.44, 4725.45, 4725.48, 4725.50, 74643
4725.51, 4725.52, 4725.57, 4731.65, 4731.71, 4736.12, 4747.05, 74644
4747.06, 4747.07, 4747.10, 4771.22, 4903.24, 4905.91, 4919.79, 74645

4981.01 (5507.01), 4981.03 (5507.03), 4981.031 (5507.031), 74646
4981.032 (5507.032), 4981.033 (5507.033), 4981.04 (5507.04), 74647
4981.05 (5507.05), 4981.06 (5507.06), 4981.07 (5507.07), 4981.08 74648
(5507.08), 4981.09 (5507.09), 4981.091 (5507.091), 4981.10 74649
(5507.10), 4981.11 (5507.11), 4981.12 (5507.12), 4981.13 74650
(5507.13), 4981.131 (5507.131), 4981.14 (5507.14), 4981.15 74651
(5507.15), 4981.16 (5507.16), 4981.17 (5507.17), 4981.18 74652
(5507.18), 4981.19 (5507.19), 4981.21 (5507.21), 4981.22 74653
(5507.22), 4981.23 (5507.23), 4981.25 (5507.25), 4981.26 74654
(5507.26), 4981.28 (5507.28), 4981.29 (5507.29), 4981.30 74655
(5507.30), 4981.31 (5507.31), 4981.32 (5507.32), 4981.33 74656
(5507.33), 4981.34 (5507.34), 4981.35 (5507.35), 4981.36 74657
(5507.36), 4981.361 (5507.361), 5101.11, 5101.14, 5101.141, 74658
5101.142, 5101.144, 5101.145, 5101.146, 5101.1410, 5101.16, 74659
5101.162, 5101.18, 5101.181, 5101.21, 5101.211, 5101.212, 74660
5101.213, 5101.214, 5101.22, 5101.24, 5101.241, 5101.242, 74661
5101.243, 5101.36, 5101.58, 5101.59, 5101.75, 5101.80, 5101.97, 74662
5103.155, 5104.01, 5104.02, 5104.30, 5104.32, 5104.42, 5107.02, 74663
5107.30, 5107.40, 5107.60, 5111.0113, 5111.02, 5111.025, 5111.03, 74664
5111.06, 5111.08 (5111.071), new 5111.16, 5111.16 (5111.08), 74665
5111.17, 5111.171, 5111.172, 5111.173, 5111.174, 5111.175, 74666
5111.176, 5111.20, 5111.204, 5111.206, 5111.21, 5111.211, 74667
5111.221, 5111.231, 5111.24, 5111.241, new 5111.25, 5111.25 74668
(5111.27), 5111.251, new 5111.252, 5111.252 (5123.199), 5111.253, 74669
5111.254, 5111.255, 5111.256, 5111.257, new 5111.26, 5111.26 74670
(5111.23), 5111.261, 5111.262, new 5111.263, 5111.263 (5111.30), 74671
5111.264, 5111.265, 5111.266, 5111.267, 5111.268, 5111.269, 74672
5111.2610, 5111.28, 5111.29 (5111.31), 5111.30 (5111.224), 5111.31 74673
(5111.222), new 5111.32, 5111.32 (5111.223), 5111.33 (5111.29), 74674
5111.34, 5111.85, 5111.87, 5111.872, 5111.88, 5111.881, 5111.882, 74675
5111.911, 5111.912, 5111.913, 5111.98, 5111.981, 5111.982, 74676
5111.99, 5112.03, 5112.08, 5112.17, 5115.01, 5115.02 (5115.04), 74677
5115.03, 5115.04 (5115.02), 5115.05, 5115.07 (5115.06), 5115.10, 74678

5115.11, 5115.12, new 5115.13, 5115.13 (5115.07), 5115.14, 5115.15 74679
(5115.23), 5115.20, 5115.22, 5119.61, 5123.01, 5123.19, 5123.196, 74680
5123.197, 5123.198, 5123.38, 5126.042, 5126.12, 5153.16, 5153.78, 74681
5501.03, 5502.13, 5519.01, 5705.19, 5709.64, 5735.05, 5735.053, 74682
5735.23, 5735.26, 5735.291, 5735.30, 6109.21, 6301.05, and 6301.07 74683
of the Revised Code as amended or enacted by this act, and the 74684
items of law of which such sections as amended or enacted by this 74685
act are composed, are not subject to the referendum. Therefore, 74686
under Ohio Constitution, Article II, Section 1d and section 1.471 74687
of the Revised Code, such sections as amended or enacted by this 74688
act, and the items of law of which such sections as amended or 74689
enacted by this act are composed, go into immediate effect when 74690
this act becomes law. 74691

Section 146.07. (A)(1) The amendment or enactment by this act 74692
of sections 109.71, 122.17, 123.01, 165.09, 319.302, 321.24, 74693
323.13, 323.152, 715.013, 718.01, 718.021, 718.03, 718.031, 74694
718.05, 718.051, 718.111, 718.112, 902.11, 1502.02, 2915.01, 74695
2925.44, 2933.43, 2935.01, 3735.67, 3735.671, 4301.12, 4301.42, 74696
4301.43, 4305.01, 4503.06, 4505.06, 4905.79, 4931.45, 4931.47, 74697
4931.48, 5703.054, 5703.19, 5703.491, 5703.56, 5703.58, 5703.80, 74698
5707.03, 5709.01, 5709.20, 5709.201, 5709.21, 5709.211, 5709.212, 74699
5709.22, 5709.23, 5709.24, 5709.25, 5709.26, 5709.27, 5709.67, 74700
5709.84, 5711.02, 5711.13, 5711.22, 5711.27, 5711.33, 5713.07, 74701
5713.08, 5713.081, 5713.082, 5715.27, 5715.39, 5717.011, 5717.02, 74702
5717.03, 5725.01, 5725.14, 5725.25, 5725.26, 5727.01, 5727.06, 74703
5727.111, 5727.15, 5727.24, 5727.25, 5727.26, 5727.27, 5727.28, 74704
5727.30, 5728.04, 5728.99, 5733.01, 5733.04, 5733.042, 5733.044, 74705
5733.05, 5733.051, 5733.056, 5733.057, 5733.059, 5733.06, 74706
5733.065, 5733.066, 5733.069, 5733.09, 5733.33, 5733.39, 5733.40, 74707
5733.45, 5733.55, 5733.56, 5733.57, 5733.98, 5735.14, 5735.15, 74708
5735.19, 5735.99, 5739.01, 5739.011, 5739.02, 5739.03 (in Section 74709
1 of this act), 5739.071, 5739.12 (in Section 1 of this act), 74710

5739.17, 5739.33, 5741.01, 5741.02 (in Section 1 of this act), 74711
5741.25, 5745.01, 5745.02, 5745.04, 5745.042, 5745.044, 5747.01, 74712
5747.02, 5747.022, 5747.025, 5747.05, 5747.057, 5747.08, 5747.09, 74713
5747.30, 5747.98, 5748.01, and 6111.06 of the Revised Code 74714
provides for or is essential to implementation of a tax levy. 74715
Therefore, under Ohio Constitution, Article II, Section 1d, the 74716
amendments or enactments, and the items of which they are 74717
composed, are not subject to the referendum and, except as 74718
otherwise specifically provided in this act, go into immediate 74719
effect when this act becomes law. 74720

(2) The repeal and re-enactment by this act of sections 74721
718.11, 718.12, and 5733.052 of the Revised Code provides for or 74722
is essential to implementation of a tax levy. Therefore, under 74723
Ohio Constitution, Article II, Section 1d, the repeals and 74724
re-enactments, and the items of which they are composed, are not 74725
subject to the referendum and, except as otherwise specifically 74726
provided in this act, go into immediate effect when this act 74727
becomes law. 74728

(B)(1) The amendment by this act of the versions of sections 74729
5739.03, 5739.12, and 5741.02 of the Revised Code that are 74730
scheduled to take effect July 1, 2003, provides for or is 74731
essential to implementation of a tax levy. Therefore, under Ohio 74732
Constitution, Article II, Section 1d, the amendments, and the 74733
items of which they are composed, are not subject to the 74734
referendum and go into effect July 1, 2003. 74735

(2) The amendment by this act of section 5727.38 of the 74736
Revised Code provides for or is essential to implementation of a 74737
tax levy. Therefore, under Ohio Constitution, Article II, Section 74738
1d, the amendment, and the items of which it is composed, are not 74739
subject to the referendum and go into effect July 1, 2003. 74740

(3) The amendment by this act of section 718.02 of the 74741
Revised Code provides for or is essential to implementation of a 74742

tax levy. Therefore, under Ohio Constitution, Article II, Section 74743
1d, the amendment, and the items of which it is composed, are not 74744
subject to the referendum and go into effect January 1, 2004. 74745

(4) The amendment by this act of sections 5727.32 and 5727.33 74746
of the Revised Code provides for or is essential to implementation 74747
of a tax levy. Therefore, under Ohio Constitution, Article II, 74748
Section 1d, the amendments, and the items of which they are 74749
composed, are not subject to the referendum and, except as 74750
otherwise specifically provided in this division, go into effect 74751
December 31, 2004. Division (A) of section 5727.33 of the Revised 74752
Code, insofar as it regards pipe-line companies, goes into effect 74753
when this act becomes law. 74754

Section 146.08. The version of section 3332.04 of the Revised 74755
Code that is scheduled to take effect July 1, 2003, as amended by 74756
this act, and the items of law of which that section as amended is 74757
composed, are not subject to the referendum. Therefore, under Ohio 74758
Constitution, Article II, Section 1d and section 1.471 of the 74759
Revised Code, the section as amended by this act, and the items of 74760
law of which that section as amended is composed, go into 74761
immediate effect on July 1, 2003. 74762

Section 146.09. (A) Except as otherwise provided in division 74763
(B) of this section, the amendments by this act to section 3745.11 74764
of the Revised Code are not subject to the referendum. Therefore, 74765
under Ohio Constitution, Article II, Section 1d and section 1.471 74766
of the Revised Code, the amendments, and the items of law they 74767
contain, go into immediate effect when this act becomes law. 74768

(B)(1) The amendments by this act of division (P) of section 74769
3745.11 of the Revised Code provides for or is essential to 74770
implementation of a tax levy. Therefore, under Ohio Constitution, 74771
Article II, Section 1d, the amendments, and the items of which 74772

they are composed, are not subject to the referendum and go into 74773
immediate effect when this act becomes law. 74774

(2) The seventh and last paragraph added to division (S)(1) 74775
of section 3745.11 of the Revised Code by this act is subject to 74776
the referendum. Therefore, under Ohio Constitution, Article II, 74777
Section 1c and section 1.471 of the Revised Code, the paragraph 74778
takes effect on the ninety-first day after this act is filed with 74779
the Secretary of State. If, however, a referendum petition is 74780
filed against the paragraph, or against any item of law it 74781
contains, the paragraph or item, unless rejected at the 74782
referendum, takes effect at the earliest time permitted by law. 74783

Section 146.10. The version of section 4511.75 of the Revised 74784
Code that is scheduled to take effect January 1, 2004, as amended 74785
by this act, and the items of law of which that section as amended 74786
is composed, are not subject to the referendum. Therefore, under 74787
Ohio Constitution, Article II, Section 1d and section 1.471 of the 74788
Revised Code, the section as amended by this act, and the items of 74789
law of which that section as amended is composed, go into 74790
immediate effect on January 1, 2004. 74791

Section 146.11. (A) Except as otherwise provided in division 74792
(B) of this section, the amendments by this act to section 4743.05 74793
of the Revised Code are subject to the referendum. Therefore, 74794
under Ohio Constitution, Article II, Section 1c and section 1.471 74795
of the Revised Code, the amendments take effect on the 74796
ninety-first day after this act is filed with the Secretary of 74797
State. If, however, a referendum petition is filed against the 74798
amendments, or against any item of law they contain, the 74799
amendments or item, unless rejected at the referendum, takes 74800
effect at the earliest time permitted by law. 74801

(B) The amendment by this act adding a reference to "4771." 74802

to section 4743.05 of the Revised Code is not subject to the 74803
referendum. Therefore, under Ohio Constitution, Article II, 74804
Section 1d and section 1.471 of the Revised Code, the amendment 74805
goes into immediate effect when this act becomes law. 74806

Section 146.12. (A) Except as otherwise provided in division 74807
(B) of this section, the amendments by this act to section 74808
5111.022 of the Revised Code are not subject to the referendum. 74809
Therefore, under Ohio Constitution, Article II, Section 1d and 74810
section 1.471 of the Revised Code, the amendments, and the items 74811
of law they contain, go into immediate effect when this act 74812
becomes law. 74813

(B) The amendments by this act adding divisions (B)(4), (E), 74814
and (F) to section 5111.022 of the Revised Code are subject to the 74815
referendum. Therefore, under Ohio Constitution, Article II, 74816
Section 1c and section 1.471 of the Revised Code, the amendments 74817
take effect on the ninety-first day after this act is filed with 74818
the Secretary of State. If, however, a referendum petition is 74819
filed against the amendments, or against any item of law they 74820
contain, the amendments or item, unless rejected at the 74821
referendum, takes effect at the earliest time permitted by law. 74822

Section 146.13. (A) Except as otherwise provided in division 74823
(B) of this section, the amendments by this act to section 5111.22 74824
of the Revised Code are subject to the referendum. Therefore, 74825
under Ohio Constitution, Article II, Section 1c and section 1.471 74826
of the Revised Code, the amendments take effect on the 74827
ninety-first day after this act is filed with the Secretary of 74828
State. If, however, a referendum petition is filed against the 74829
amendments, or against any item of law they contain, the 74830
amendments or item, unless rejected at the referendum, takes 74831
effect at the earliest time permitted by law. 74832

(B) The amendments to the first, introductory paragraph; the amendment to division (A) referring to "rules adopted under section 5111.02"; the amendment to the introductory clause of division (B); and the amendments to divisions (B)(2) and (7) of section 5111.22 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 amendments, and the items of law they contain, go into immediate effect when this act becomes law.

Section 146.14. Section 5112.31 of the Revised Code, as amended by this act, and the items of law of which that section as amended is composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, that section as amended by this act, and the items of law of which that section as amended is composed, are entitled to go into immediate effect when this act becomes law. However, that section as amended by this act, and the items of law which that section as amended by this act are composed, take effect on July 1, 2003, or the day this act becomes law, whichever is later.

Section 146.15. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 4981.20 (5507.20) 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 amendments, and the items of law they contain, go into immediate effect when this act becomes law.

(B) The amendment by this act to the second and last sentence of the second paragraph of division (A) of section 4981.20 (5507.20) of the Revised Code provides for or is essential to

implementation of a tax levy. Therefore, under Ohio Constitution, 74863
Article II, Section 1d, the amendment is not subject to the 74864
referendum and goes into immediate effect when this act becomes 74865
law. 74866

Section 146.16. * Section 102.02 of the Revised Code, as 74867
amended by this act, shall take effect January 1, 2004. 74868

Section 146.17. * Sections 125.05, 183.28, 3301.80, 3301.801, 74869
3314.074, 3317.06, 3317.50, 3317.51, 3319.22, and 3319.235 of the 74870
Revised Code, as amended by this act, take effect July 1, 2004. 74871

Section 146.18. * Section 4759.08 of the Revised Code, as 74872
amended by this act, shall take effect July 1, 2004. 74873

Section 146.19. * Sections 5103.031, 5103.033, 5103.034, 74874
5103.036, 5103.037, 5103.038, 5103.0312, 5103.0313, 5103.0314, 74875
5103.0315, 5103.0316, 5153.60, 5153.69, and 5153.72 of the Revised 74876
Code, as amended by this act, shall take effect on January 1, 74877
2004. 74878

Section 146.20. * Sections 5103.154 and 5153.163 of the 74879
Revised Code as amended by this act take effect July 1, 2004. 74880

Section 146.21. * Section 5112.31 of the Revised Code, as 74881
amended by this act, shall take effect July 1, 2003. 74882

Section 146.22. Except as otherwise specifically provided in 74883
this act, the uncodified sections of law amended or enacted in 74884
this act, and the items of law of which the uncodified sections of 74885
law amended or enacted in this act are composed, are not subject 74886
to the referendum. Therefore, under Ohio Constitution, Article II, 74887
Section 1d and section 1.471 of the Revised Code, the uncodified 74888
sections of law amended or enacted in this act, and the items of 74889

law of which the uncodified sections of law amended or enacted in 74890
this act are composed, go into immediate effect when this act 74891
becomes law. 74892

Section 146.23. Uncodified sections of law amended or enacted 74893
in this act, and items of law contained within the uncodified 74894
sections of law amended or enacted in this act, that are marked 74895
with an asterisk are subject to the referendum. Therefore, under 74896
Ohio Constitution, Article II, Section 1c and section 1.471 of the 74897
Revised Code, the uncodified sections and items of law marked with 74898
an asterisk take effect on the ninety-first day after this act is 74899
filed with the Secretary of State. If, however, a referendum 74900
petition is filed against an uncodified section or item of law 74901
marked with an asterisk, the uncodified section or item of law 74902
marked with an asterisk, unless rejected at the referendum, takes 74903
effect at the earliest time permitted by law. 74904

If the amending and existing repeal clauses commanding the 74905
amendment of an uncodified section of law are both marked with 74906
asterisks, the uncodified section as amended is deemed also to 74907
have been marked with an asterisk. 74908

An asterisk marking an uncodified section or item of law has 74909
the form *. 74910

This section defines the meaning and form of, but is not 74911
itself to be considered marked with, an asterisk. 74912

Section 146.24. (A) Except as otherwise provided in division 74913
(B) of this section, the amendments by this act to Section 27 of 74914
Sub. H.B. 670 of the 121st General Assembly are not subject to the 74915
referendum. Therefore, under Ohio Constitution, Article II, 74916
Section 1d and section 1.471 of the Revised Code, the amendments 74917
go into immediate effect when this act becomes law. 74918

(B) The amendments by this act removing references to the 74919

Hazardous Waste Facility Board and to the Reclamation Commission 74920
from Section 27 of Sub. H.B. 670 of the 121st General Assembly are 74921
subject to the referendum. Therefore, under Ohio Constitution, 74922
Article II, Section 1c and section 1.471 of the Revised Code, the 74923
amendments take effect on the ninety-first day after this act is 74924
filed with the Secretary of State. If, however, a referendum 74925
petition is filed against the amendments, or against any item of 74926
law they contain, the amendments or item, unless rejected at the 74927
referendum, takes effect at the earliest time permitted by law. 74928

Section 146.25. The repeal by this act of the following 74929
uncodified sections of law is not subject to the referendum and 74930
therefore, under Ohio Constitution, Article II, Section 1d and 74931
section 1.471 of the Revised Code, goes into immediate effect when 74932
this act becomes law: 74933

(A) Section 11 of Am. Sub. S.B. 50 of the 121st General 74934
Assembly; 74935

(B) Section 129 of Am. Sub. H.B. 283 of the 123rd General 74936
Assembly; 74937

(C) Section 63.37 of Am. Sub. H.B. 94 of the 124th General 74938
Assembly. 74939

Section 146.26. If the amendment or enactment in this act of 74940
a codified or uncodified section of law is subject to the 74941
referendum, the corresponding indications in the amending, 74942
enacting, or existing repeal clauses commanding the amendment or 74943
enactment also are subject to the referendum, along with the 74944
amendment or enactment. If the amendment or enactment by this act 74945
of a codified or uncodified section of law is not subject to the 74946
referendum, the corresponding indications in the amending, 74947
enacting, or existing repeal clauses commanding the amendment or 74948
enactment also are not subject to the referendum, the same as the 74949

amendment or enactment. 74950

Section 147.01. * The amendment of section 122.25 of the 74951
Revised Code by this act is not intended to supersede the earlier 74952
repeal, with delayed effective date, of that section. 74953

Section 147.02. * Section 921.151 was amended and renumbered 74954
as section 921.22 of the Revised Code by Am. Sub. S.B. 217 of the 74955
124th General Assembly, passed November 21, 2002, and effective 74956
July 1, 2004. The amendment of section 921.151 of the Revised Code 74957
in Section 1 of this act does not supersede that earlier amendment 74958
and renumbering. This act therefore amends both sections to ensure 74959
that its amendments continue on and after July 1, 2004. 74960

Section 147.03. The amendment by this act of sections 5112.03 74961
and 5112.08 of the Revised Code is not intended to supersede the 74962
earlier repeal, with delayed effective date, of those sections. 74963
74964

Section 147.04. The amendment by this act of section 5112.99 74965
of the Revised Code is not intended to supersede the earlier 74966
repeal, with delayed effective date, of that section. 74967

Section 148.01. * Section 109.572 of the Revised Code is 74968
presented in this act as a composite of the section as amended by 74969
both Sub. H.B. 448 and Sub. H.B. 538 of the 123rd General 74970
Assembly. The General Assembly, applying the principle stated in 74971
division (B) of section 1.52 of the Revised Code that amendments 74972
are to be harmonized if reasonably capable of simultaneous 74973
operation, finds that the composite is the resulting version of 74974
the section in effect prior to the effective date of the section 74975
as presented in this act. 74976

Section 148.02. Section 109.71 of the Revised Code is 74977
presented in this act as a composite of the section as amended by 74978
both Sub. H.B. 545 and H.B. 675 of the 124th General Assembly. The 74979
General Assembly, applying the principle stated in division (B) of 74980
section 1.52 of the Revised Code that amendments are to be 74981
harmonized if reasonably capable of simultaneous operation, finds 74982
that the composite is the resulting version of the section in 74983
effect prior to the effective date of the section as presented in 74984
this act. 74985

Section 148.03. Section 121.04 of the Revised Code is 74986
presented in this act as a composite of the section as amended by 74987
both Sub. H.B. 601 and Am. Sub. H.B. 640 of the 123rd General 74988
Assembly. The General Assembly, applying the principle stated in 74989
division (B) of section 1.52 of the Revised Code that amendments 74990
are to be harmonized if reasonably capable of simultaneous 74991
operation, finds that the composite is the resulting version of 74992
the section in effect prior to the effective date of the section 74993
as presented in this act. 74994

Section 148.04. Section 2935.01 of the Revised Code is 74995
presented in this act as a composite of the section as amended by 74996
both Sub. H.B. 545 and H.B. 675 of the 124th General Assembly. The 74997
General Assembly, applying the principle stated in division (B) of 74998
section 1.52 of the Revised Code that amendments are to be 74999
harmonized if reasonably capable of simultaneous operation, finds 75000
that the composite is the resulting version of the section in 75001
effect prior to the effective date of the section as presented in 75002
this act. 75003

Section 148.05. Section 3317.012 of the Revised Code is 75004
presented in this act as a composite of the section as amended by 75005

both Am. Sub. H.B. 94 and Am. Sub. S.B. 1 of the 124th General 75006
Assembly. The General Assembly, applying the principle stated in 75007
division (B) of section 1.52 of the Revised Code that amendments 75008
are to be harmonized if reasonably capable of simultaneous 75009
operation, finds that the composite is the resulting version of 75010
the section in effect prior to the effective date of the section 75011
as presented in this act. 75012

Section 148.06. * Section 4303.181 of the Revised Code is 75013
presented in this act as a composite of the section as amended by 75014
both Sub. H.B. 330 and Sub. H.B. 371 of the 124th General 75015
Assembly. The General Assembly, applying the principle stated in 75016
division (B) of section 1.52 of the Revised Code that amendments 75017
are to be harmonized if reasonably capable of simultaneous 75018
operation, finds that the composite is the resulting version of 75019
the section in effect prior to the effective date of the section 75020
as presented in this act. 75021

Section 148.07. * Section 4973.17 of the Revised Code is 75022
presented in this act as a composite of the section as amended by 75023
both Am. Sub. H.B. 566 and Sub. H.B. 670 of the 121st General 75024
Assembly. The General Assembly, applying the principle stated in 75025
division (B) of section 1.52 of the Revised Code that amendments 75026
are to be harmonized if reasonably capable of simultaneous 75027
operation, finds that the composite is the resulting version of 75028
the section in effect prior to the effective date of the section 75029
as presented in this act. 75030

Section 148.08. Section 5111.20 of the Revised Code is 75031
presented in this act as a composite of the section as amended by 75032
both Sub. H.B. 403 and Sub. H.B. 448 of the 123rd General 75033
Assembly. The General Assembly, applying the principle stated in 75034
division (B) of section 1.52 of the Revised Code that amendments 75035

are to be harmonized if reasonably capable of simultaneous 75036
operation, finds that the composite is the resulting version of 75037
the section in effect prior to the effective date of the section 75038
as presented in this act. 75039

Section 148.09. Section 5115.01 of the Revised Code is 75040
presented in this act as a composite of the section as amended by 75041
both Am. Sub. H.B. 283 and H.B. 471 of the 123rd General Assembly. 75042
The General Assembly, applying the principle stated in division 75043
(B) of section 1.52 of the Revised Code that amendments are to be 75044
harmonized if reasonably capable of simultaneous operation, finds 75045
that the composite is the resulting version of the section in 75046
effect prior to the effective date of the section as presented in 75047
this act. 75048

Section 148.10. * Section 5709.62 of the Revised Code is 75049
presented in this act as a composite of the section as amended by 75050
both Am. Sub. H.B. 283 and Sub. H.B. 27 of the 123rd General 75051
Assembly. The General Assembly, applying the principle stated in 75052
division (B) of section 1.52 of the Revised Code that amendments 75053
are to be harmonized if reasonably capable of simultaneous 75054
operation, finds that the composite is the resulting version of 75055
the section in effect prior to the effective date of the section 75056
as presented in this act. 75057

Section 148.11. * Section 5709.63 of the Revised Code is 75058
presented in this act as a composite of the section as amended by 75059
both Am. Sub. H.B. 283 and Sub. H.B. 27 of the 123rd General 75060
Assembly. The General Assembly, applying the principle stated in 75061
division (B) of section 1.52 of the Revised Code that amendments 75062
are to be harmonized if reasonably capable of simultaneous 75063
operation, finds that the composite is the resulting version of 75064
the section in effect prior to the effective date of the section 75065

as presented in this act. 75066

Section 148.12. Section 5733.04 of the Revised Code is 75067
presented in this act as a composite of the section as amended by 75068
both Sub. S.B. 200 and Am. Sub. S.B. 261 of the 124th General 75069
Assembly. The General Assembly, applying the principle stated in 75070
division (B) of section 1.52 of the Revised Code that amendments 75071
are to be harmonized if reasonably capable of simultaneous 75072
operation, finds that the composite is the resulting version of 75073
the section in effect prior to the effective date of the section 75074
as presented in this act. 75075

Section 148.13. Section 5735.05 of the Revised Code is 75076
presented in this act as a composite of the section as amended by 75077
both H.B. 612 and Am. Sub. H.B. 640 of the 123rd General Assembly. 75078
The General Assembly, applying the principle stated in division 75079
(B) of section 1.52 of the Revised Code that amendments are to be 75080
harmonized if reasonably capable of simultaneous operation, finds 75081
that the composite is the resulting version of the section in 75082
effect prior to the effective date of the section as presented in 75083
this act. 75084

Section 148.14. Section 5735.23 of the Revised Code is 75085
presented in this act as a composite of the section as amended by 75086
both H.B. 612 and Am. Sub. H.B. 640 of the 123rd General Assembly. 75087
The General Assembly, applying the principle stated in division 75088
(B) of section 1.52 of the Revised Code that amendments are to be 75089
harmonized if reasonably capable of simultaneous operation, finds 75090
that the composite is the resulting version of the section in 75091
effect prior to the effective date of the section as presented in 75092
this act. 75093

Section 148.15. Section 5739.01 of the Revised Code was 75094

amended by Am. Sub. H.B. 524, Am. Sub. S.B. 143, and Sub. S.B. 200, all of the 124th General Assembly. Comparison of these amendments in pursuance of section 1.52 of the Revised Code discloses that while certain of the amendments of these acts are reconcilable, certain other of the amendments are substantively irreconcilable. Am. Sub. H.B. 524 was passed on March 21, 2002; Am. Sub. S.B. 143 was passed on January 30, 2002; Sub. S.B. 200 was passed on March 13, 2002. Section 5739.01 of the Revised Code is therefore presented in this act as it results from Am. Sub. H.B. 524 and Sub. S.B. 200 and such of the amendments of Am. Sub. S.B. 143 as are not in conflict with the amendments of Sub. S.B. 200. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Section 148.16. Section 5741.01 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 524, Am. Sub. S.B. 143, and Sub. S.B. 200, all of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Section 149. If any item of law that constitutes the whole or part of a codified or uncodified section of law contained in this act, or if any application of any item of law that constitutes the whole or part of a codified or uncodified section of law contained in this act, is held invalid, the invalidity does not affect other items of law or applications of items of law that can be given

effect without the invalid item of law or application. To this	75127
end, the items of law of which the codified and uncodified	75128
sections contained in this act are composed, and their	75129
applications, are independent and severable.	75130